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NOTICE TO MEMBERS: 76-13  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

## IMPORTANT NOTICE LOST SECURITIES

April 1, 1976

TO: All NASD Members

Please take notice that the following bearer bonds have been reported missing:

<u>Description of Issue</u>	<u>Certificate Numbers</u>
New York State Housing Finance Agency 6.7% due 11/1/96; 10 @ \$5,000	10252 10262-70
New York State Housing Finance Agency 6.3% due 11/1/97; 10 @ \$5,000	20213-22
New York State Housing Finance Agency 5.5% due 5/1/89; 4 @ \$5,000	10121-4-SMA
New York State Housing Finance Agency 6.4% due 11/1/2003; 6 @ \$5,000	B12298-99 B12300-303
New York State Dormitory (Syracuse University) 5.7% due 7/1/90; 5 @ \$5,000	768-772
New York State Dormitory (Adelphi University) 4% due 7/1/81; 2 @ \$5,000	468-469

We are advising you of this fact so that you may alert your staff against purchasing these securities or accepting them as collateral for loans.

If any NASD member comes into possession of any of the above cited certificates or receives any information concerning these certificates, he should contact:

Michael M. Marx, Esquire  
900 17th Street, N. W., Suite 800  
Washington, D. C. 20006  
(202) 223-8400

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Wilson". The signature is written in a cursive style with a large, stylized initial "F".

Frank J. Wilson  
Senior Vice President  
Regulation

NOTICE TO MEMBERS: 76-14  
Notices to Members should be  
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# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

April 1, 1976

TO: All NASD Members

RE: Good Friday Closing - Settlement Dates

As previously indicated in NASD Notice to Members: 76-1, Schedule of Holidays, securities markets and the NASDAQ system will be closed on April 16, 1976, in observance of Good Friday. Transactions made on the business days immediately preceding that day will be subject to the schedule of settlement dates described below (for "regular-way" transactions).

April 16 shall not be considered as a business day for any purpose.

## Schedule for "regular-way" transactions

<u>Trade Date</u>	<u>Settlement Date</u>
April 8	April 15
9	19
12	20
13	21
14	22
15	23
16 (Good Friday)	-
19	26

Questions regarding this notice may be directed to the Uniform Practice Division of National Clearing Corporation\*, 2 Broadway 8th Floor, New York, N.Y. 10004- (212)952-4018)

\*This notice, which applies to all NASD members, has been issued by National Clearing Corporation. The Board of Directors of NCC interprets and enforces the provisions of the NASD's Uniform Practice Code.

NOTICE TO MEMBERS: 76-15  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

April 1, 1976

## MAIL VOTE

### I M P O R T A N T

TO: All NASD Members and Interested Persons

RE: Proposed Amendment - Article XVII of the NASD By-Laws:  
Proposed Combination of Clearing Facilities

LAST VOTING DATE IS: May 4, 1976

The Board of Governors of the Association has approved the recommendation of the Board of Directors of National Clearing Corporation ("NCC") that changes to Article XVII (Clearing and Settling Transactions of Members) of the Association's By-Laws be made in order to conform to the proposed plan of combination of clearing facilities. A copy of NASD Notice to Members 76-12 dated March 17, 1976, describing the plan is included (without attachments) for your information.

Accordingly, pursuant to Article IX of the Association's By-Laws, the proposed changes, the text of which is set out hereinbelow, must be approved by the membership. If so approved, the changes must be filed with the Securities and Exchange Commission for approval pursuant to Section 19(b) of the Securities and Exchange Act prior to becoming effective.

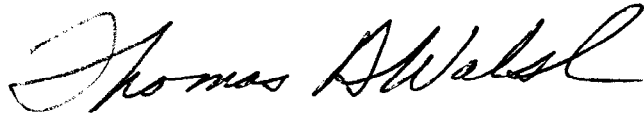
The proposed changes to Article XVII are important and merit your immediate attention. Accordingly, please mark your ballot and return it in the enclosed stamped envelope to "The Corporation Trust Company." In order that the Association's By-Laws conform when the proposed clearing combination is implemented, ballots must be postmarked no later than May 4, 1976.

The Board of Governors has approved the proposed changes

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as necessary and appropriate and recommends that members  
vote their approval.

Very truly yours,

A handwritten signature in cursive script, reading "Thomas D. Walsh". The signature is written in dark ink and is positioned above the typed name and title.

Thomas D. Walsh  
Secretary

TW:jk  
Attachments

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

April 5, 1976

TO: All NASD Members

RE: Quarterly Check List of Notices to Members  
(First Quarter, 1976)

Typically indexed below are the Notices to Members which  
have been issued during the first quarter of 1976.

<u>Topic</u>	<u>Serial No. and Summary Description</u>	<u>Date</u>
Check List of Notices	76-2 Quarterly Check List (Fourth Quarter, 1976)	1/12/76
Clearing	76-12 Proposed NCC Rules - Combination of Clearing Facilities	3/17/76
Consolidated Tape	76-10 Extension of Consolidated Tape Reporting Requirements	2/19/76
Financial Reporting	76-4 SEC Adopts FOCUS Report & Amends Various Financial Reporting Rules	1/22/76
Holidays	76-1 1976 Schedule of Holidays 76-1A Corrected 1976 Schedule	1/12/76 1/12/76
Options	76-8 Options on NASDAQ Proposal 76-8A Corrections to 76-8	2/10/76 2/19/76
Receivers & Trustees, Appointment of	76-6 Temporary Receiver, Prudhomme 76-7 Temporary Receiver, J. S. Roberts & Co. 76-9 SIPC Trustee, J.S. Roberts & Co. 76-11 Receiver, Stanley Cooper & Co. Inc.	1/30/76 2/6/76 2/19/76 3/8/76

Settlement Dates	76-5 Washington & Lincoln Birthdays	1/22/76
Subordination Agreements	76-3 Subordination Agreements	1/15/76

Members should note that only one copy of each Notice to Members is mailed to every main office of every member. Copies are not mailed to branch offices or to additional personnel in the main office other than the Executive Representative. Therefore, we suggest that all members retain the original copy of each Notice to Members in a separate file in their main office, and that copies needed for internal or branch office distribution be duplicated from the original Notice.

If your main office file is missing any of the following notices, please write to the Office Services Administrator at the NASD Executive Office. Requests for copies should be accompanied by a self-addressed label.

\* \* \* \* \*

# NASD

NOTICE TO MEMBERS: 76-17  
Notices to Members should be  
retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

April 19, 1976

TO: All NASD Members

RE: Forwarding of Proxy and Other Materials

It is at this time of year that corporations traditionally hold their annual meetings and stockholders vote on corporate matters for the ensuing year. In order to assist stockholders with their rights of ownership, proxy materials and other issuer communications are forwarded by issuers, broker/dealers and others to the owners and beneficial owners of securities.

The Interpretation of the Association's Board of Governors, Forwarding of Proxy and Other Materials (pgs. 2037-3 to 2039 NASD Manual), addresses itself to the timely dissemination of proxy materials and other issuer communications to beneficial owners for whom members hold securities in a name other than that of such beneficial owner.

As noted therein, members can expect reimbursement for reasonable expenses for assisting issuers in meeting their obligations to forward proxy and other materials to beneficial owners. Additionally, suggested rates of reimbursement for expenses incurred in forwarding the materials are contained in the Board's Interpretation.

In light of recent requests for clarification and in an effort to improve the cooperation between issuers and NASD members necessary to insure the timely dissemination of proxy materials and other issuer communications, you are advised of the following:

- A. At the time members order issuer communications such as proxy solicitation sets, annual/quarterly reports, or other issuer communications, either on their own order form or on "search cards" provided by the issuing corporation, members must also indicate thereon the amount of such materials



required, and must specifically certify thereon that the materials ordered are to be forwarded to beneficial owners.

- B. On invoices sent to issuers by members for reimbursement of expenses incurred in so forwarding proxy and other materials, members must set forth individually the number of sets of such materials, the postage expense, the total charge and any other expense items included in the total charge. Members shall also specifically certify on the invoice that such materials were sent to beneficial owners.

Issuers have been advised by several interested groups that bills from broker/dealers and others should not be paid until these items of information are specifically furnished.

\* This Notice, which applies to all NASD Members, has been issued by National Clearing Corporation. The Board of Directors of NCC interprets and enforces the provisions of the NASD's Uniform Practice Code.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

IMPORTANT INFORMATION

TO: ALL NASDAQ COMPANIES

FROM: RICHARD PETERS  
VICE PRESIDENT/NASDAQ OPERATIONS

RE: REIMBURSEMENT FOR FORWARDING OF PROXY AND OTHER  
MATERIALS

DATE: APRIL 28, 1976

The Association has a long-established policy which sets forth the duties and responsibilities of NASD members to ensure the timely dissemination of proxy materials and other issuer communications to beneficial owners for whom NASD members hold securities in a name other than that of the beneficial owner.

Incorporated in that policy is the recognition that a member may request reimbursement from issuers for reasonable expenses incurred in assisting issuers in meeting their obligations to forward proxy and other materials to beneficial owners.

On December 15, 1975, we notified you that certain organizations unassociated with registered broker/dealers had been charging publicly-owned companies for forwarding shareholder materials (NASDAQ NOTICE: 2-75). A list of such firms provided by the American Society of Corporate Secretaries was attached to the Notice. While the Association has no control over such organizations, we have adopted the following guidelines which, although directed to NASD members, may also prove helpful to you in dealing with other organizations:

- A. At the time NASD members order issuer communications such as proxy solicitation sets, annual/quarterly reports, or other issuer communications, either on their own order form or on "search cards" provided by the issuing corporation, members must also indicate

- more -

thereon the amount of such materials required, and must specifically certify thereon that the materials ordered are to be forwarded to beneficial owners only.

- B. On invoices sent to issuers by NASD members for reimbursement of expenses incurred in so forwarding proxy and other materials, members must set forth individually the number of sets of such materials, the postage expense, the total charge and any other expense items included in the total charge. NASD members shall also specifically certify on the invoice that all such materials were sent to beneficial owners.

All issuers are advised that bills from broker/dealers and others should not be paid until these items of information are specifically furnished.

For your further information, the American Society of Corporate Secretaries has furnished us with the following names which should be added to the list attached to NASDAQ NOTICE: 2-75:

Financial Investment Data Co.  
First Commonwealth Company  
J. Halsted  
Horizon Company  
National Economic Research Council  
New York Investors  
Republic Financial Company

\* \* \* \* \*

## REIMBURSEMENT REQUESTS—

updated 10/75

The following organizations have been reported to the Society's National Office as having charged issuers for distributing various corporate publications. In each case, we have written to verify the service performed and to verify the reliability of the claimant organization. Second requests have been sent if a response has not been received within a reasonable time. If no response is received, we assume the organization to be questionable. Please Note: If a response is received and we feel that the respondent is performing the service claimed [those entries preceded by an asterisk (\*)], we send a copy of that response to those members who have received reimbursement requests and/or billing for distribution. Each member must then decide whether he will comply.

However, the Society has long held the position that the cost of distributing these publications to individuals and/or organizations that are not stockholders of record, nor able to prove themselves to be beneficial owners, is a cost to be borne either by the distributing organization as part of the overhead of servicing its clients, or by those interested individuals and/or organizations themselves.

Until we are assured that no billing will be sent to our member-companies for such distributions, we will continue to maintain a list of those companies that expect reimbursement by the issuer. We will continue to suggest non-compliance to requests for copies of the company's publications and to requests for reimbursement for the purported service when performance cannot be verified.

Abbott Fredericks Company	Dominion Investments
Acorn Investment Company	Educational Research Services
Affiliated Investment Company	Edwards & Co.
Akins & Co.	*Elder Associates
Aloha Investments	Empire Equities Company
*Ansa Financial Services, Inc.	Empire Financial Co.
American Investors Company	Enfield Inc.
*Amplifications	Exchange for Corporate Material, Inc., The
Atlantic Equities Company	Farmers Investments Company
Badmess Inc.	Federated Securities Management Company
Baybridge Management Services	Fidelity Management Investments
Bear, W., & Company, Inc.	Fid-Nom
Blair Financial Associates	Fiduciary Investment Co.
Bonvest, Inc.	Fiduciary Nominee Trust
Bruns & Company	Financial Investment Data Company
Burnett Investment Co.	Financial Investments, Inc.
Butuso Strom & Co.	Finfo & Co.
Century Investments Company	First Atlanta Securities
Chartwell Advisory Services Inc.	*First Camelback Corp.
Chestnut Investment Management	First Commonwealth Investments Co.
Clark, G.N., Co. Inc.	First Manhasset Co.
Colonial Investments Company	Fleisher and Company
Computer Utilities of the Ozarks, Inc.	Florida Financial Forum, Inc.
Concord Managements	Fourres and Co.
Continental Investments Company	Franklin Federal Corp.
Cooper, L. Richard, Inc.	Franklin Securities Company
Corpfolio Associates	Fundamental Management Investments
Corporate Communications Co.	G & G Associates
Corporate Information Distr. Service	General Investment Service
Corporate Materials, Inc.	Gibraltar Investment Management
Corporate Report Services, Ltd.	Gordon Associates
Corporate Resources Co.	Gowell Ranch
Court & Co. (of Norfolk, Va)	Green & Company
Dahl, Christian Kr., & Co.	Greenhouse Asset Management Corp.
*Davis, Cohn & Watkins Associates	

Growth Securities Inc.  
 H and D Company  
 H & L Enterprises Co.  
 H & S Corporate Research Service  
 \*Haase Christian and Company  
 Hallmark and Company  
 Hamilton Investments Co.  
 Harbour Investments  
 Harriman, Banks & Co.  
 Havertown Investments Company  
 Herbert, J.K., & Co.  
 Heritage Investment Management Co.  
 Infinidex, Inc.  
 Inquest Inc.  
 Intervest  
 Investment Guideline  
 Investor Information Service  
 Jeffries & Co.  
 King Financial Enterprises  
 Kirkwood Securities Information Services  
 Koenig & Co.  
 Lawrence, M., & Co.  
 Lincoln Management Investments Company  
 \*Littlejohn, Roland & Co.  
     (Corporate & Collegiate Services)  
 \*L S & Co.  
 Madison Investors Corp.  
 Managed Investments Company  
 Marketron Associates  
 Marsh, Reagan & Co.  
 Miller, Peter, & Associates  
 Mitchell & Co.  
 Mobley & Co.  
 Morgan-Kennedy & Co.  
 Murray Enterprises, Inc.  
 Murray-Streett & Co.  
 \*National Financial Data Exchange  
 National Planning Association, The  
 Nebraska Investment Corp.  
 New York Clearance Systems Co., Inc.  
 \*New York Financial Information Services  
 Ninth Street Investment Co.  
 N.Y. Securities Management Co.  
 Pacific Coast Assets, Inc.  
 Pacific Investors Services  
 Page Industries, Inc.  
 Patterson, Reed and Piper Associates  
 Penthouse  
 Philadelphia Investment Counsel Co.  
 Prudential Investment Company  
 Ramapo Associates, Inc.  
 Ray, Don, Associates  
 Rebozo Associates, Inc.  
 Reliance Investment Management  
 Report Resources Center  
 Richards, Warren & Co.  
 Roman, Harry & Company  
 Roman, Mahoney, Curtis & Co.  
 RSF Investment Advisers, Inc.  
 Sadler & Co.  
 Saul, Marten & Co.  
 Securities Monitor Inc.  
 Securities Nominee Corporation  
 Selected Investments  
 Shire Company (payment voluntary)  
 Smyth & Co  
 Souder Corporation  
 Spaulding Davis & Davis Associates  
 Standard Investment Co.  
 Stanley, Bruce & Company, Inc.  
 Stewart and Company  
 Stone, J. R. & Co.  
 Strong Consulting Co.  
 Stuart's Stock Guide Service of Miami  
 \*Sturbridge and Company  
 Thomas, Cameron, Lee & Co.  
 Triton Distribution Services  
 United Investors Co.  
 United Research Associates  
 University Securities Company  
 U.S. Investment Management  
 Valley Investors  
 Wall Street Financial Library  
 Warren, David, Equities Corporation  
 Westco Financial Corporation  
 Willoughby Holin Inc.  
 Wilson, Hall & Co.  
 Winnetka Financial Services, Inc.  
 Winthrop Company, The (payment voluntary)  
 York Associates  
 Zerbe, K.R., and Company

\*services verified, reimbursement expected.

# NASD

NOTICE TO MEMBERS: 76-18  
Notices to Members should be retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

April 30, 1976

TO: All NASD Members and Interested Persons

RE: SEC Adoption of Amendments to Rules 10a-1 and 10a-2  
Under the Securities Exchange Act of 1934

On February 25, 1976, in Securities Exchange Act Release No. 12138, the Securities and Exchange Commission announced that the amendments to SEC Rules 10a-1 and 10a-2 will become effective on April 30, 1976. The adoption of the amendments was previously announced in Securities Exchange Act Release No. 11468, dated June 12, 1975. The amendments provide for comprehensive regulation of all short sales of securities reported on the Consolidated Tape regardless of the market in which such short sales are effected. Therefore, short sale transactions in listed securities executed in the over-the-counter market will now be subject to the Commission's short sale rules. Copies of the above-mentioned SEC releases are attached.

The amendments provide that the short sale rules will be applicable to any person effecting a short sale for his own account or for the account of any other person in any listed security in which transactions are reported to the Consolidated Tape and last sale information as to such transactions are made available on a real-time basis to vendors of market transaction information. The amendments provide that no short sales may be effected: (1) below the price at which the last sale, thereof, regular way, was reported in the Consolidated Tape System, or (2) at such price unless such price is above the next preceding different price at which a sale of such security, regular way, was reported in the Consolidated Tape System.

In addition, the amendments require members to mark all sell orders in listed securities reported to the Consolidated Tape either "long" or "short." Members may not mark a sell order "long" unless: (1) the security to be delivered is carried in the account for which the sale is to be effected, or (2) the member is informed that the seller owns the security ordered to be sold and will deliver the security owned to the account for which the sale is to be effected as soon as possible. The amendments also contain special requirements for certain transactions, regulations for short sales of listed securities in which transactions are not reported to the Consolidated Tape; exemptions from the rules; requirements for covering purchases; and a provision allowing exchanges to adopt different short sale rules.

Members should note that in order to comply with the Commission's short sale rules it is necessary to utilize interrogation devices which display consolidated last sale information on a real-time basis. The Commission emphasized in its release that certain vendors of market information may not elect to provide real-time last sale information on interrogation devices and that only interrogation devices which present last sale data on a real time basis may be relied upon in ascertaining prices at which short sales are permissible under the rules.

The securities in which transactions are reported on the Consolidated Tape are:

(1) All common stocks, long-term warrants, and preferred stocks registered or admitted to unlisted trading privileges on the New York Stock Exchange;

(2) All common stocks, long-term warrants, and preferred stocks registered or admitted to unlisted trading privileges on the American Stock Exchange;

(3) All rights admitted to trading on the New York Stock Exchange or the American Stock Exchange which entitle the holder to purchase or acquire a share or shares of a security listed on such exchange provided that both the right and the listed security are admitted to trading on the same exchange;

(4) The following issues which are listed on regional stock exchanges:

Allcity Insurance	Memorex Corporation
Almaden Vineyards	Modine Mfg. Co.
Aloha Airlines	Old Gold Seed Co.
Amcord Cum. Pfd.	Pacific Gas Transmission
AMFAC Series B Co. Cu. Pfd.	Pacific Resources Inc.
Behavioral Research Labs, Inc.	Sharon Steel Corp.
Carson Pirie Scott & Co.	Southern Calif. Gas Co. 6% A Pfd.
Casco Northern	Southern Calif. Gas Co. 6% Pfd.
Columbia Technical Corp.	Sundance Oil Co.
Crestmont Oil & Gas	Tenneco \$4.98 Cu. Pfd.
DWG Corporation	Tenneco \$5.00 Cu. Pfd.
General Exploration	Tucson Gas & Electric Co. \$2.89 Cu. Pfd.
Geothermal Resources	United Canso Oil & Gas
Hein-Werner Corp.	Williams & Co. Inc.
Medflich Corp.	

Therefore, beginning April 30, 1976, all short sale transactions in the above issues executed in the over-the-counter market must comply with the provisions of amended SEC Rules 10a-1 and 10a-2.

Enclosures

NOTICE OF ADOPTION OF AMENDMENTS TO RULES  
10a-1 AND 10a-2 UNDER THE SECURITIES EXCHANGE  
ACT OF 1934 AND OF SOLICITATION OF PUBLIC  
COMMENT ON CERTAIN PROPOSALS TO FURTHER  
AMEND THOSE RULES. (File No. S7-515)

*Introduction*

The Commission today adopted certain amendments to Rules 10a-1 and 10a-2 under the Securities Exchange Act of 1934 (the "Act"). Rules 3b-3, 10a-1, and 10a-2 under the Act comprise the Commission's short sale rules (the "Short sale rules"). As amended, the short sale rules provide for comprehensive regulation of all short sales of securities as to which last sale information is to be reported in the consolidated transaction reporting system ("Reported Securities") contemplated by Rule 17a-15 under the Act (the "consolidated system"), regardless of the market in which such short sales are effected, after such information is made available to vendors of market transaction information on a real-time basis.

With a view to implementation of the consolidated system, the Commission first published for comment proposed amendments to the short sale rules on March 6, 1974, <sup>1/</sup> and, after revisions in light of the comments received, adopted those amendments on September 27, 1974 (effective October 4, 1974) (the "October Amendments"). <sup>2/</sup> On October 17, 1974, the October Amendments to Rules 10a-1 and 10a-2 were suspended temporarily by the Commission pending further study. The October Amendments to Rule 3b-3 were not affected by the suspension. The suspension was instituted in response to representations made to the Commission by certain self-regulatory organizations that implementation of the October Amendments would result in serious operational and other difficulties in regulating short sale transactions in their markets. <sup>3/</sup> On March 5, 1975, the Commission published for comment additional proposed amendments to Rule 10a-1 (the "March Proposals"), which were intended to ameliorate the difficulties perceived by those self-regulatory organizations. <sup>4/</sup> The amendments to the short sale rules adopted today, in substance, are an implementation of the March Proposals.

*The Amended Short Sale Rules.*

While the Commission has determined to adopt amendments to the short sale rules at this time, in view of the complex nature of these amendments in the context of an operational consolidated system, the Commission wishes to solicit further comment on certain aspects of the new short sale rules with a view to making additional changes in those rules prior to full implementation of the consolidated system, as discussed below.

Paragraph (a) of Rule 10a-1 will not apply to short sales of any Reported Security until last sale information as to transactions in that Reported Security is made available to vendors of market transaction information on a real-time basis in accordance with the terms of the joint industry plan declared effective by the Commission under Rule 17a-15. <sup>5/</sup>

After the date on which such information with respect to Reported Securities is made available on a real-time basis, paragraph (a) of Rule 10a-1 will govern short sales of those Reported Securities in all markets (including transactions effected on national securities exchanges and in the over-the-counter market). Prior to that date, short sales of securities (including Reported Securities) will be governed by paragraph (b) of Rule 10a-1, which applies only to short sales effected on national securities exchanges.

The amendments to Rule 10a-1 adopted today by the Commission are identical, in all material respects, to the March Proposals (although certain changes, indicated below, have been made to clarify the meaning of the March Proposals). Certain technical amendments to Rule 10a-2 have been adopted to conform the references to Rule 10a-1 contained therein to the new paragraphing of Rule 10a-1. Rule 3b-3 has not been changed since the October Amendments and, as amended, has been effective since October 4, 1974.

*Reasons for and Impact of the Amended Short Sale Rules.*

The need for regulation of short sales was recognized by the Congress when it conferred virtually plenary authority on the Commission to regulate such sales in Section 10(a) of the Act. <sup>6/</sup> Prior to adoption of the October Amendments (later suspended, as indicated above), the Commission's short sale rules covered only short sales effected on exchanges; however, the advent of the consolidated system, which will result in wide publicity for sales, including short sales, of certain securities effected in all markets (whether on exchanges or in the over-the-counter market), requires that short sale regulation be extended to over-the-counter short sales of Reported Securities. <sup>7/</sup>

The Commission has considered that short sale regulation should accomplish three objectives:

- (1) Allow relatively unrestricted short selling in an advancing market;
- (2) Prevent short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down;
- (3) Prevent short sellers from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers. <sup>8/</sup>

The Commission believes that Rule 10a-1, as amended, achieves these goals. Consequently, while the Commission recognizes that the short sale rules, as amended, may impose certain burdens on competition, discussed herein, the Commission believes that those burdens are necessary or appropriate in furtherance of the purposes of the Act.

When the short sale rules were promulgated in the 1930's, the Commission considered that, unless so-called "regional" exchanges were afforded relief from the strictures of those rules to permit purchase orders to be filled by short sales at prices which could have been obtained on the "principal" exchange, "regional" exchanges would be unable to attract a sufficient flow of orders to sustain their existence. The equalizing exemption contained in paragraph (d)(6) of Rule 10a-1, prior to amendment, therefore, permitted all short sellers utilizing the facilities of an exchange market other than the "principal" exchange market to effect short sales at prices "necessary to equalize the price... with the current price" on the "principal" exchange even though such sales were viewed, in terms of the Rule, as destabilizing. Achievement of a central market system, together with elimination of fixed rates of commission, however, should place all markets on a relatively equal competitive footing and make possible the elimination of special treatment for "regional" exchanges, such as that afforded by the equalizing exemption.



Until achievement of a central market system, it appears that some form of equalizing exemption will be necessary to permit the "regional" exchanges to progress toward establishing true competitive equality with the "principal" exchanges. The advent of the consolidated system is deemed by the Commission to be a significant advance toward achievement of a central market system. For this reason, when the consolidated system is implemented fully, the new equalizing exemption contained in paragraph (e)(5) of Rule 10a-1 will be limited to specialists and market makers and will apply with equal force to short sales of Reported Securities in all markets. Prior to full implementation of the consolidated system, however, the equalizing exemption contained in paragraph (e)(6) of Rule 10a-1 (the successor to paragraph (d)(6) of the Rule prior to amendment) will remain available to any person for short sales of a Reported Security on an exchange which is not the "principal" exchange market for that security effected in accordance with past interpretations of that exemption. 9/

The Commission's original short sale rules did not apply to over-the-counter transactions since, in the absence of publicity concerning over-the-counter short sales (such as that to be afforded by the consolidated system), there appeared to be little reason to fear that such sales would have a manipulative or destabilizing impact on the markets as a whole. After full implementation of the consolidated system, the new short sale rules will apply only to transactions in Reported Securities.

While short sales of Reported Securities in the over-the-counter market will not become subject to Rule 10a-1 until full implementation of the consolidated system, the National Association of Securities Dealers, Inc. (the "NASD") has informed the Commission that it is securing agreement by its market maker members responsible for approximately 97% of all short sales of Reported Securities in the over-the-counter market to certain conditions governing their short sales of those securities until the consolidated system is implemented fully. 10/ The conditions are virtually identical to those which currently govern over-the-counter short sales of Reported Securities included in Phase I of the consolidated system by NASD members who are reporting participants in that pilot project. 11/ In the event this action by the NASD proves to be inadequate to assure appropriate and fair restriction of short selling in Reported Securities over-the-counter until full implementation of the consolidated system, the Commission will take corrective action.

In determining to exclude over-the-counter short sales of Reported Securities from the provisions of Rule 10a-1 until full implementation of the consolidated system, the Commission has taken into account not only the NASD's efforts to secure voluntary agreement to appropriate restraints on short selling of Reported Securities by its market maker members, but also the importance of real-time last sale information to third market brokers seeking to effect over-the-counter executions of Reported Security short sale orders for customers. The "tick" test is viable as a measure of short sale permissibility only if those subject to the test (or their agents) have ready access to current information concerning completed transactions. Prior to full implementation of the consolidated system, it will be impossible (as it has been in the past) for brokers and dealers to be aware, on a current basis, of the prices at which transactions have been effected in the over-the-counter market. Because third

market transactions are not effected on a physical "floor," affording prompt access to such information, the absence of a real-time reporting system for over-the-counter transactions undermines the practicality of the "tick" test. 12/

Finally, as amended, and upon full implementation of the consolidated system, Rule 10a-1 permits an exchange to make an election as to whether short sales of Reported Securities are to be governed by a "tick" test referenced to the last sale reported from any market in the consolidated system or one referenced to the last sale in that exchange's market. The Rule also permits an exchange to foreclose use of the equalizing exemption by its specialists and market makers. The Commission recognizes that, to the extent exchanges elect to have short sales effected through their facilities governed by a "tick" test referenced to their own last sales or elect to prohibit use by their specialists and market makers of the equalizing exemption, disparities will exist between markets with respect to the ability of both public investors and market professionals to effect short sales. At certain times, short sales at a given price which could be effected legally in one market may not be permissible in another market.

This aspect of the Rule was designed to ameliorate potential regulatory and operational problems perceived by certain exchanges, as indicated above, which impeded implementation of the October Amendments. 13/ The optional method of short sale regulation made available to exchanges by the amended Rule satisfactorily resolves these difficulties while preserving the Rule's essential safeguards against destabilizing trading. The Commission believes, however, that modernization of exchange facilities may eliminate the need to structure short sale regulation in this manner and that it should be possible ultimately to utilize the kind of uniform rule contemplated by the October Amendments.

#### *Proposed Changes in the Short Sale Rules.*

A. *The "Tick" Test.* It has been suggested that the reference point for application of the "tick" test under paragraph (a)(1) of Rule 10a-1 for purposes of determining the permissibility of a short sale of a Reported Security should be broadened to permit the test to be applied to either the last sale reported in the consolidated system or the last sale in the market in which the short sale is to be effected (treating the over-the-counter market in Reported Securities as a single market), whichever is lower. 14/ This proposal would increase the flexibility of Rule 10a-1 with respect to prices at which short sales of Reported Securities could be effected. While impediments to reliance on such a provision exist for certain markets (e.g., the over-the-counter market, because of the difficulty of ascertaining the most recent sale in that market), it does not appear to the Commission that short sales effected in accordance with such a provision would be inconsistent with the purposes of the short sale rules. 15/

If the foregoing proposal were adopted by the Commission, the text of paragraph (a)(1) of Rule 10a-1 would be revised to read as follows (Insertions in Italics):

(a)(1) No person shall, for his own account or for the account of any other person, effect a short sale of any security registered on, or admitted to unlisted trading

privileges on, a national securities exchange, if trades in such security are reported pursuant to a consolidated transaction reporting system operated in accordance with a plan declared effective under Securities Exchange Act Rule 17a-15 (a "consolidated system") and information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information, (i) below the price at which the last sale thereof, regular way, was reported in such consolidated system, or (ii) at the price at which the last sale thereof, regular way, was reported in such consolidated system, unless such price is above the next preceding different price at which a sale of such security, regular way, was reported in a consolidated system; *provided, however, that such short sale may be effected on a national securities exchange or in the over-the-counter market at or above the price at which the last sale thereof, regular way, was effected in the particular market in which such sale is to be effected, unless the last sale thereof is below the next preceding different price at which a sale of such security, regular way, was effected in that market, in which case such sale may not be effected at or below that price, except as may be otherwise permitted by this paragraph (a)(1).*

The Commission believes that this proposal would obviate any potential problems which might be experienced by "regional" exchanges under the new "tick" test contained in paragraph (a) of Rule 10a-1, as adopted.

**B. The Equalizing Exemption.** The amendments to Rule 10a-1 adopted by the Commission will effect a narrowing of the equalizing exemption for short sales of Reported Securities after full implementation of the consolidated system. Paragraph (e)(5) of the Rule will foreclose use of the exemption for short sales of Reported Securities covered by paragraph (a) of the Rule by persons other than registered exchange specialists and market makers and Qualified Third Market Makers. It has been objected that this action may deprive "regional" exchanges of needed liquidity and effectively preclude brokers and dealers other than specialists and market makers from assuring customers that their orders will be executed at prices at least as favorable as those available on the "principal" exchange market. <sup>16/</sup> The Commission, however, believes that the equalizing exemption should be drawn as narrowly as possible to preserve the integrity of the "tick" test contained in paragraph (a) of the Rule 10a-1.

The Commission notes that availability of the equalizing exemption for short sales on "regional" exchanges by persons other than specialists and market makers appears to have exerted an undesirable influence upon the selection by brokers of a market for the execution of orders (including both short sale and purchase orders of customers). This aspect of the exemption has made it possible, in certain situations, to effect a short sale for a customer on a "regional" exchange at a price below the price at which such sale could have been effected on the "principal" exchange for that security; similarly, by use of the exemption, it has been possible for brokers and dealers other than specialists and market makers to fill a purchase order by a short sale on a "regional" exchange at a price below the price at which the short sale could have been effected on the "principal" exchange. These practices have been characterized as the "transporting" of transactions.

The Commission regards the transporting of transactions to evade the strictures of the short sale rules as an evasion of the purposes of those rules and inconsistent with the spirit and intent of the equalizing exemption. The availability of the equalizing exemption to persons on regional exchanges was afforded to enhance the liquidity of those exchanges with respect to orders naturally flowing to those exchanges; the exemption was not intended to create an incentive to divert orders from the "principal" exchange market to avoid the impact of Rule 10a-1. As amended, Rule 10a-1 will make it possible for an exchange market to eliminate the reasons for transporting transactions in Reported Securities after full implementation of the consolidated system.

Nevertheless, in view of the fears expressed by "regional" exchanges that narrowing the equalizing exemption in the manner contemplated by the amendments to Rule 10a-1, as adopted, will impair the liquidity of their markets, the Commission has determined to consider whether some limited change should be made in the exemption afforded by paragraph (e)(5) of the Rule to permit equalizing short sales by persons other than specialists and market makers. In particular, the Commission is considering amending that paragraph as follows (Insertions in *Italics*; Deletions [Bracketed]):

(5) Any sale of a security covered by paragraph (a) of this rule (except a sale to a stabilizing bid complying with Securities Exchange Act Rule 10b-7) by a registered specialist or registered exchange market maker for its own account on any exchange with which it is registered for such security, or by a Qualified Third Market Maker which has filed a notice for such security with the Commission on Form X-17A-16(1) for its own account, *or by any broker or dealer, for his own account or the account of a customer, on an exchange to fill a customer's order if (i) no more than 1,000 shares of the particular security to be sold are sold pursuant to this paragraph (e)(5) on that exchange by such broker or dealer in a single transaction at the price of the sale and (ii) no other sale has been effected on that exchange pursuant to the exemption afforded by this paragraph (e)(5) at the price of such broker's or dealer's sale prior to an intervening higher sale of that security reported in the consolidated system, effected at a price equal to or above the last sale reported for such security in a consolidated system;* *provided, however, that any exchange, by rule, may prohibit use [its registered specialists and registered exchange market makers from availing themselves] of the exemption afforded by this paragraph (e)(5) in its market if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors;*

This proposal would permit brokers and dealers to effect equalizing short sales of Reported Securities after full implementation of the consolidated system on exchanges pursuant to paragraph (e)(5) of Rule 10a-1 in the manner permitted for short sales generally under the equalizing exemption afforded by paragraph (e)(6) of the Rule. It should be noted that, as proposed, this provision would permit a broker acting for a customer to effect the customer's short sale order pursuant to the equalizing ex-

emption. The Commission is particularly interested in receiving comment on this aspect of the proposal. 17/

The Commission wishes to receive suggestions as to alternative means of permitting brokers and dealers to effect equalizing transactions in a manner which will enhance "regional" exchange liquidity without permitting the transporting of transactions and without undermining the integrity of the "tick" test (e.g., exchanges might be encouraged to file plans with the Commission contemplating a general exemption for its members to sell short pursuant to the exemption under specified circumstances).

Finally, the Commission wishes to explore further the feasibility of revising Rule 10a-1 to prohibit short selling only at prices below the last preceding different price ("minus ticks") and of eliminating short sale regulation entirely.

Interested persons are invited to submit their views and comments on the foregoing two proposed amendments to Rule 10a-1, particularly with respect to the competitive impact of the Rule as proposed to be amended, and on the questions of whether to change the Rule to prohibit short sales only on minus ticks or to eliminate short sale regulation, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D. C. 20459 no later than August 1, 1975. All comments should refer to File No. S7-515.

#### *Effectiveness of the Amended Rules.*

Rule 3b-3 has not been changed since the October Amendments and, as amended, has been effective since October 4, 1975. The Commission has determined that Rules 10a-1 and 10a-2, as amended, must be effective coincident with implementation of the next stage of the consolidated system, currently scheduled for June 16, 1975. For this reason, and because of the ample public exposure already afforded to the October Amendments and the March Proposals, the Commission finds that there is good cause for declaring the amendments to Rules 10a-1 and 10a-2 set forth below effective without publication thirty days prior to their effective date, otherwise required by the Administrative Procedure Act (5 U.S.C. 553(d)). Therefore, pursuant to the Commission's authority under Sections 10(a) and 23(a) under the Act, Rules 10a-1 and 10a-2, as amended in the manner set forth below, are hereby declared effective as of June 16, 1975. Rules 10a-1 and 10a-2 as in effect prior to these amendments will remain effective through June 15, 1975.

#### *Texts of the Amended Rules.*

The texts of the short sale rules are as follows (as amended since the March Proposals, Insertions in Italics; Deletions [Bracketed]):

#### **Rule 3b-3. Definition of "Short Sale".**

The term "short sale" means any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. A person shall be deemed to own a security if (1) he or his agent has the title to it; or (2) he has purchased, or has entered into an unconditional contract, binding on both parties thereto, to purchase it but

has not yet received it; or (3) he owns a security convertible into or exchangeable for it and has tendered such security for conversion or exchange; or (4) he has an option to purchase or acquire it and has exercised such option; or (5) he has rights or warrants to subscribe to it and has exercised such rights or warrants; provided, however, that a person shall be deemed to own securities only to the extent that he has a net long position in such securities.

#### **Rule 10a-1. Short Sales**

(a)(1) No person shall, for his own account or for the account of any other person, effect a short sale of any security registered on, or admitted to unlisted trading privileges on, a national securities exchange, if trades in such security are reported pursuant to a consolidated transaction reporting system operated in accordance with a plan declared effective under Securities Exchange Act Rule 17a-15 (a "consolidated system") and information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information, (i) below the price at which the last sale thereof, regular way, was reported in such consolidated system, or (ii) at such price unless such price is above the next preceding different price at which a sale of such security, regular way, was reported in a consolidated system.

(2) Notwithstanding subparagraph (1) of this paragraph (a), any exchange, by rule, may require that no person shall, for his own account or the account of any other person, effect a short sale of any such security on that exchange (i) below the price at which the last sale thereof, regular way, was effected on such exchange, or (ii) at such price unless such price is above the next preceding different price at which a sale of such securities, regular way, was effected on such exchange, if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors; and, if an exchange adopts such a rule, no person shall, for his own account or for the account of any other person, effect a short sale of any such security on such exchange otherwise than in accordance with such rule, and compliance with any such rule of an exchange shall constitute compliance with this paragraph (a).

(3) In determining the price at which a short sale may be effected after a security goes ex-dividend, ex-right, or ex-any other distribution, all sale prices prior to the "ex" date may be reduced by the value of such distribution.

(b) No person shall, for his own account or for the account of any other person, effect on a national securities exchange a short sale of any security *not covered by paragraph (a) of this rule*, [if all trades in such security are exempted from reporting pursuant to a consolidated system] (1) below the price at which the last sale thereof, regular way, was effected on such exchange, or (2) at such price unless such price is above the next preceding different price at which a sale of such security, regular way, was effected on such exchange. In determining the price at which a short sale may be effected after a security goes ex-dividend, ex-right, or ex-any other distribution, all sale prices prior to the "ex" date may be reduced by

the value of such distribution.

(c) No broker or dealer shall, by the use of any facility of a national securities exchange, or any means or instrumentality of interstate commerce, or of the mails, effect any sell order for a security registered on, or admitted to unlisted trading privileges on, a national securities exchange unless such order is marked either "long" or "short."

(d) No broker or dealer shall mark any order to sell a security registered on, or admitted to unlisted trading privileges on, a national securities exchange "long" unless (1) the security to be delivered after sale is carried in the account for which the sale is to be effected, or (2) such broker or dealer is informed that the seller owns the security ordered to be sold and, as soon as is possible without undue inconvenience or expense, will deliver the security owned to the account for which the sale is to be effected.

(e) The provisions of paragraphs (a) and (b) hereof (and of any exchange rule adopted in accordance with paragraph (a) hereof) shall not apply to --

(1) Any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense;

(2) Any broker or dealer in respect of a sale, for an account in which he has no interest, pursuant to an order to sell which is marked "long";

(3) Any sale by an odd-lot dealer *on an exchange with which it is registered for such security, or any over-the-counter sale* by a Qualified Third Market Maker in a security for which such market maker has filed a notice with the Commission on Form X-17A-16(1) to offset odd-lot orders of customers;

(4) Any sale by an odd-lot dealer *on an exchange with which it is registered for such security, or any over-the-counter sale* by a Qualified Third Market Maker in a security for which such market maker has filed a notice with the Commission on Form X-17A-16(1), to liquidate a long position which is less than a round lot, provided such sale does not change the position of such odd-lot dealer or such market maker by more than the unit of trading;

(5) Any sale of a security covered by paragraph (a) of this rule (except a sale to stabilizing bid complying with Securities Exchange Act Rule 10b-7) by a registered specialist or registered exchange market maker *for its own account* on any exchange with which it is registered for such security, or by a Qualified Third Market Maker which has filed a notice for such security with the Commission on Form X-17A-16(1) *for its own account* [in the market in such security made] over-the-counter, [by such market maker] effected at a price equal to or above the last sale reported for such security in a consolidated system; provided, however, that any exchange, by rule, may prohibit its registered specialists and registered exchange market makers from availing themselves of the exemption afforded by this paragraph (e)(5) if that exchange determines that such action is necessary or appropriate in

its market in the public interest or for the protection of investors;

(6) Any sale of a security covered by paragraph (b) hereof on a national securities exchange (except a sale to a stabilizing bid complying with Securities Exchange Act Rule 10b-7) effected with the approval of such exchange which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security;

(7) Any sale of a security for a special arbitrage account by a person who then owns another security by virtue of which he is, or presently will be, entitled to acquire an equivalent number of securities of the same class as the securities sold; provided such sale, or the purchase which such sale offsets, is effected for the bona fide purpose of profiting from a current difference between the price of the security sold and the security owned and that such right of acquisition was originally attached to or represented by another security or was issued to all the holders of any such class of securities of the issuer;

(8) Any sale of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange effected for a special international arbitrage account for the bona fide purpose of profiting from a current difference between the price of such security on a securities market not within or subject to the jurisdiction of the United States and on a securities market subject to the jurisdiction of the United States; provided the seller at the time of such sale knows or, by virtue of information currently received, has reasonable grounds to believe that an offer enabling him to cover such sale is then available to him in such foreign securities market and intends to accept such offer immediately;

(9) Any sale of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange effected in accordance with a special offering plan declared effective by the Commission pursuant to paragraph (d) of Rule 10b-2; or

(10) Any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights pursuant to Rule 10b-8 or a standby underwriting commitment.

For the purpose of subparagraph (8) hereof a depository receipt of a security shall be deemed to be the same security as the security represented by such receipt.

(f) This rule shall not prohibit any transaction or transactions which the Commission, upon written request or upon its own motion, exempts, either unconditionally or on specified terms and conditions.

#### Rule 10a-2. Requirements for Covering Purchases

(a) No broker or dealer shall lend, or arrange for the loan of any security registered on, or admitted to unlisted trading privileges on a national securities exchange for delivery

to the broker for the purchaser after sale, or shall fail to deliver a security on the date delivery is due, if such broker or dealer knows or has reasonable grounds to believe that the sale was effected, or will be effected, pursuant to an order marked "long," unless such broker or dealer knows, or has been informed by the seller, (1) that the security sold has been forwarded to the account for which the sale was effected, or (2) that the seller owns the security sold, that it is then impracticable to deliver to such account the security owned and that he will deliver such security to such account as soon as it is possible without undue inconvenience or expense.

(b) The provisions of paragraph (a) hereof shall not apply (1) to the lending of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange by a broker or dealer through the medium of a loan to another broker or dealer, or (2) to any loan, or arrangement for the loan, of any such security, or to any failure to deliver any such security if, prior to such loan, arrangement or failure to deliver, a national securities exchange, in the case of a sale effected thereon, or a national securities association, in the case of a sale not effected on an exchange, finds (i) that such sale resulted from a mistake made in good faith, (ii) that due diligence was used to ascertain that the circumstances specified in clause (1) of Rule 10a-1 (d) existed or to obtain the information specified in clause (2) thereof, and (iii) either that the condition of the market at the time the mistake was discovered was such that undue hardship would result from covering the transaction by a "purchase for cash" or that the mistake was made by the seller's broker and the sale was at a price permissible for a short sale under Rule 10a-1(a) or (b).

By the Commission.

George A. Fitzsimmons  
Secretary

1/ Securities Exchange Act Release No. 10668 (March 6, 1974).

2/ Securities Exchange Act Release No. 11030 (September 27, 1974).

3/ Securities Exchange Act Release Nos. 11051 (October 15, 1974) and 11051A (November 17, 1974).

4/ Securities Exchange Act Release No. 11276 (March 5, 1975).

5/ Securities Exchange Act Release No. 10787 (May 10, 1974). In this regard, also see Securities Exchange Act Release No. 11317 (March 28, 1975), stating that vendors of market transaction information are not obligated under Rule 17a-15 to display on their interrogation devices consolidated last sale data as to Reported Securities from all markets until, among other things, such data is made available to them by means of a high speed line, as provided in Section V of the joint industry plan. Thus, until a high speed line has been implemented, and the last sale of a Reported Security reported from any market in the consolidated system can be determined promptly by reference to vendors' interrogation devices, without regard to delays in the transmission of last sale data by means of

ticker tape displays, it would not be feasible to subject short sales of that Reported Security in all markets to the provisions of paragraph (a) of Rule 10a-1.

6/ Rule 10a-1 imposes strictures on only one kind of selling: short selling. Long sales of securities are not subject to the Rule. Although the Commission has expressed uncertainty as to whether any regulation of short selling is necessary in today's markets, the Commission has also indicated that it would seem premature to consider elimination of short sale regulation until further progress has been made toward establishment of a central market system. See Securities Exchange Act Release No. 11276 (March 5, 1975), particularly footnote 4 thereof. It is the linking of the existing discrete markets in a single system, electronically and by other means, that will reduce to a minimum the opportunities for would-be manipulators to depress securities prices in the markets as a whole by unrestrained short selling.

7/ *Policy Statement of the Securities and Exchange Commission on the Structure of a Central Market System*, at 32, 66 (March 29, 1973). Advisory Committee on a Central Market System, *Interim Report on a Central Market System* (October 11, 1972); Securities Exchange Act Release No. 10688 (March 6, 1974).

8/ 2 Securities and Exchange Commission, *Special Study of Securities Markets*, H.R. Doc. No. 95, 88th Cong., 1st Sess., at 251 (1963).

9/ The equalizing exemption, contained in paragraph (d) (6), under Rule 10a-1, as in effect prior to the amendments adopted today, was framed to permit short sales to be effected on any exchange at a price "which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security." In the context of short sale regulation, full implementation of a consolidated system will eliminate the need for regulatory distinctions between a "principal" exchange market and any other market for a Reported Security. During the interim period, however, between implementation of a consolidated ticker tape display of last sale data from all markets and full implementation of the consolidated system (including real-time availability of such data to vendors of market transaction information for display on interrogation devices), it appears that it will not be feasible to require any short sale of a Reported Security to be referenced to the last sale reported in the consolidated system for purposes of compliance with the short sale rules because vendors of market transaction information will not be required to make such information available upon inquiry to users of interrogation devices during that period. Thus, for purposes of paragraph (e)(6) of Rule 10a-1, which affords an equalizing exemption for exchange short sales of Reported Securities prior to full implementation of the consolidated system, the "principal" exchange market reference point will be retained until full implementation of that system is achieved.

10/ The NASD agreement provides that

[n]o Designated Reporting [NASD] Member shall effect a short sale in a security which is included in reporting of the consolidated transaction reporting system declared effective pursuant to Rule 17a-15 under the Securities

to the broker for the purchaser after sale, or shall fail to deliver a security on the date delivery is due, if such broker or dealer knows or has reasonable grounds to believe that the sale was effected, or will be effected, pursuant to an order marked "long," unless such broker or dealer knows, or has been informed by the seller, (1) that the security sold has been forwarded to the account for which the sale was effected, or (2) that the seller owns the security sold, that it is then impracticable to deliver to such account the security owned and that he will deliver such security to such account as soon as it is possible without undue inconvenience or expense.

(b) The provisions of paragraph (a) hereof shall not apply (1) to the lending of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange by a broker or dealer through the medium of a loan to another broker or dealer, or (2) to any loan, or arrangement for the loan, of any such security, or to any failure to deliver any such security if, prior to such loan, arrangement or failure to deliver, a national securities exchange, in the case of a sale effected thereon, or a national securities association, in the case of a sale not effected on an exchange, finds (i) that such sale resulted from a mistake made in good faith, (ii) that due diligence was used to ascertain that the circumstances specified in clause (1) of Rule 10a-1 (d) existed or to obtain the information specified in clause (2) thereof, and (iii) either that the condition of the market at the time the mistake was discovered was such that undue hardship would result from covering the transaction by a "purchase for cash" or that the mistake was made by the seller's broker and the sale was at a price permissible for a short sale under Rule 10a-1 (a) or (b).

By the Commission.

George A. Fitzsimmons  
Secretary

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4/ Securities Exchange Act Release No. 11276 (March 5, 1975).

5/ Securities Exchange Act Release No. 10787 (May 10, 1974). In this regard, also see Securities Exchange Act Release No. 11317 (March 28, 1975), stating that vendors of market transaction information are not obligated under Rule 17a-15 to display on their interrogation devices consolidated last sale data as to Reported Securities from all markets until, among other things, such data is made available to them by means of a high speed line, as provided in Section V of the joint industry plan. Thus, until a high speed line has been implemented, and the last sale of a Reported Security reported from any market in the consolidated system can be determined promptly by reference to vendors' interrogation devices, without regard to delays in the transmission of last sale data by means of

ticker tape displays, it would not be feasible to subject short sales of that Reported Security in all markets to the provisions of paragraph (a) of Rule 10a-1.

6/ Rule 10a-1 imposes strictures on only one kind of selling: short selling. Long sales of securities are not subject to the Rule. Although the Commission has expressed uncertainty as to whether any regulation of short selling is necessary in today's markets, the Commission has also indicated that it would seem premature to consider elimination of short sale regulation until further progress has been made toward establishment of a central market system. See Securities Exchange Act Release No. 11276 (March 5, 1975), particularly footnote 4 thereof. It is the linking of the existing discrete markets in a single system, electronically and by other means, that will reduce to a minimum the opportunities for would-be manipulators to depress securities prices in the markets as a whole by unrestrained short selling.

7/ *Policy Statement of the Securities and Exchange Commission on the Structure of a Central Market System*, at 32, 66 (March 29, 1973). Advisory Committee on a Central Market System, *Interim Report on a Central Market System* (October 11, 1972); Securities Exchange Act Release No. 10688 (March 6, 1974).

8/ 2 Securities and Exchange Commission, *Special Study of Securities Markets*, H.R. Doc. No. 95, 88th Cong., 1st Sess., at 251 (1963).

9/ The equalizing exemption, contained in paragraph (d) (6), under Rule 10a-1, as in effect prior to the amendments adopted today, was framed to permit short sales to be effected on any exchange at a price "which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security." In the context of short sale regulation, full implementation of a consolidated system will eliminate the need for regulatory distinctions between a "principal" exchange market and any other market for a Reported Security. During the interim period, however, between implementation of a consolidated ticker tape display of last sale data from all markets and full implementation of the consolidated system (including real-time availability of such data to vendors of market transaction information for display on interrogation devices), it appears that it will not be feasible to require any short sale of a Reported Security to be referenced to the last sale reported in the consolidated system for purposes of compliance with the short sale rules because vendors of market transaction information will not be required to make such information available upon inquiry to users of interrogation devices during that period. Thus, for purposes of paragraph (e) (6) of Rule 10a-1, which affords an equalizing exemption for exchange short sales of Reported Securities prior to full implementation of the consolidated system, the "principal" exchange market reference point will be retained until full implementation of that system is achieved.

10/ The NASD agreement provides that

[n]o Designated Reporting [NASD] Member shall effect a short sale in a security which is included in reporting of the consolidated transaction reporting system declared effective pursuant to Rule 17a-15 under the Securities

Exchange Act of 1934 below the last sale in such security, or at the last sale if the preceding different sale was at a higher price, effected by such member; provided, however, that such member may effect a short sale in such security if such sale is necessary to equalize the price of such security in its market with the last price of such security reported in the consolidated transaction reporting system.

11/ See Securities Exchange Act Release No. 11056 (October 17, 1974).

12/ See footnote 9 *supra*.

13/ See footnote 4 *supra*.

14/ See Letters from the Midwest Stock Exchange to the Commission, dated November 24, 1974, April 3, 1975, and June 4, 1975; File No. S7-515.

15/ While it is unclear at the present time whether vendors of market transaction information will offer, as a service, a reference file of last sale data as to transactions in Reported Securities effected in the over-the-counter market which would permit such data to be recalled on interrogation devices, the existence of such a service would appear to obviate any operational difficulties in this regard.

16/ See Letters to the Commission from the PBW Stock Exchange, dated November 8, 1974, the Pacific Stock Exchange, dated November 14, 1974, and the Midwest Stock Exchange, dated November 25, 1974.

17/ In this regard, attention should be given to the problems presented by *Opper v. Hancock*, 250 F. Supp. 668 (S.D.N.Y. 1966), *aff'd*, 367 F.2d 157 (2d Cir. 1966).

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NOTICE OF FURTHER CLARIFICATION OF AVAILABILITY  
OF LAST SALE INFORMATION ON A REAL-TIME BASIS  
FOR PURPOSES OF RULES 10a-1 AND 17a-15 UNDER  
THE SECURITIES EXCHANGE ACT OF 1934.

(File Nos. S7-433 and S7-515)

In Securities Exchange Act Release No. 11468 (June 12, 1975), the Commission announced the adoption of certain amendments to Rules 10a-1 and 10a-2 under the Securities Exchange Act of 1934 (the "Act") to provide for comprehensive regulation of all short sales of securities as to which last sale information is reported in the consolidated transaction reporting system ("reported securities") contemplated by Rule 17a-15 under the Act (the "consolidated system") regardless of the market in which such short sales are effected. Certain of the new provisions of Rule 10a-1, however, will become applicable to short sales of such securities only after consolidated last sale data "is made available" to vendors of market information on a real-time basis by means of a high speed data transmission line (the "high speed line") in accordance with the joint industry plan declared effective under Rule 17a-15 (the "Plan").<sup>1</sup>

Implementation of the high speed line for last sale data concerning reported securities included in both Network A and B of the consolidated system also determines the date on which vendor obligations under Rule 17a-15 commence. In Securities Exchange Act Release No. 11317 (March 28, 1975), the Commission noted that vendors may be obligated by the Consolidated Tape Association (which administers the consolidated system) to display consolidated last sale data only after the commencement of Phase II of the consolidated system.<sup>2</sup> Since Phase II, as described in the Plan,<sup>3</sup> contemplates the full implementation of all elements of the consolidated system, including Networks A and B,<sup>4</sup> as well as the availability of last sale data with respect to transaction in all reported securities by means of the high speed line, the release stated that vendors have no obligations to display consolidated data on interrogation devices in the manner contemplated by Rule 17a-15 and the Plan until full implementation of the consolidated system, including an operational high speed line.<sup>5</sup>

In January, 1976, the Commission was informed that last

<sup>1</sup> Rule 10a-1 (a) (1).

<sup>2</sup> Securities Exchange Act Release No. 11317 (March 28, 1975) at 1.

<sup>3</sup> A copy of the Plan is contained to Commission File No. S7-433 and is available for public inspection.

<sup>4</sup> Network A reports transactions in New York Stock Exchange listed securities which occur on any of the participating exchanges, in the third market, or thorough Institute. Network B will report transactions in American Stock Exchange and certain regionally listed securities.

<sup>5</sup> Securities Exchange Act Release No. 11317 (March 28, 1975) at 2. See Securities Exchange Act Release No. 11273 (March 3, 1975) at 7-8.

8/SEC DOCKET

sale information with respect to reported securities included in Network A of the consolidated system would become available on a real-time basis to certain vendors of market information<sup>6</sup> in the near future and that such vendors were likely to be capable of providing such information to their subscribers by means of interrogation devices on a real-time basis early in February, 1976, although an additional period could be required for technical adjustments. In light of that information, the Commission then issued a release in order to clarify that, barring a subsequent delay, last sale data as to reported securities included in Network A of the consolidated system would be "made available" within the meaning of paragraph (a) of Rule 10a-1 on March 1, 1976.<sup>7</sup>

It now appears, however, that not all vendors of reported security last sale information will be capable of providing that data to their subscribers on a consolidated, real-time basis by March 1, 1976. Although the processor of the consolidated system is expected to be prepared to disseminate both Networks A and B on a real-time basis on March 1, 1976, the Commission has been informed that one major vendor has experienced technical difficulties which have prevented it from completing modifications to its system necessary to display last sale information on a consolidated basis. In addition, the Commission is concerned that adequate notice of the imminent availability of consolidated last sale data on a high-speed basis for reported securities included in Network B of the consolidated system may not have been afforded interested persons.

In light of these facts, and to afford a period of time within which the foregoing problems may be resolved, the Commission has determined that last sale information will not, in fact, be "available" on March 1, 1976 for purposes of Rules 10a-1 and 17a-15, and is therefore publishing this release to clarify that, barring further delays, last sale data as to reported securities included in both Networks A and B will be "made available" on a real-time basis within the meaning of paragraph (a) of Rule 10a-1 on April 30, 1976,<sup>8</sup> and that full implementation of the consolidated system will occur, for purposes of Rule 17a-15, on that same date.

The Commission wishes to re-emphasize that, because certain vendors of market information<sup>9</sup> may not elect to provide real-time last sale information as to reported securities to their subscribers, and because delays in the transmission of last sale data caused by ticker lateness would prevent persons subject to paragraph (a) of Rule 10a-1 from being aware of the last sale "reported" in the consolidated system for purposes of compliance with that Rule, only interrogation

devices which present last sale data as to reported securities on a real-time basis (*i.e.*, using data obtained from the high speed line) may be relied upon in ascertaining prices at which short sales are permissible under paragraphs (a) (1) and (2) and (e) (5) of the Rule.

By the Commission.

George A. Fitzsimmons  
Secretary

<sup>6</sup> These vendors are Bunker Ramo Corporation GTE Information Systems, Inc., and Quotron Systems, Inc.

<sup>7</sup> Securities Exchange Act Release No. 12018 (January 14, 1976) at 1. The release also indicated that it was expected that Network B would become available approximately mid-February, 1976.

<sup>8</sup> Since the equalizing provision contained in paragraph (e) (5) of Rule 10a-1 is only applicable to those securities covered by paragraph (a) of Rule 10a-1, paragraph (e) (5), by its terms, will not become effective until paragraph (a) of the Rule is operative.

<sup>9</sup> *E. g.*, AutEx, Inc.



# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

May 10, 1976

## IMPORTANT

### AMENDMENTS TO FIDELITY BONDING RULE EFFECTIVE IMMEDIATELY

TO: All NASD Members and Interested Persons

RE: Amendments to Appendix C, Article III Section 32  
Rules of Fair Practice (Fidelity Bonding Rule)

Enclosed are two amendments to Appendix C, Article III Section 32 of the Association's Rules of Fair Practice. After being submitted to the membership for comment these amendments were approved by the Board of Governors pursuant to the authority vested in the Board by sub-section (b) of Article 32. The amendments have also been approved by the Securities and Exchange Commission. They are effective immediately.

The first amendment is a technical change necessitated by the recent amendments to Commission Rule 15c3-1 (the net capital rule). When the Association's bonding rule was introduced in March of 1974, Association members who were also members of a stock exchange were already subject to the fidelity bonding rules of the exchange. Consequently, they were exempted from the Association's rule. The exemption was accomplished by exempting Association members who were not then subject to Rule 15c3-1, since, at that time, exchange members were subject to exchange net capital rules rather than Rule 15c3-1. Rule 15c3-1 is now applicable to members of exchanges. In order to continue the exemption from the Association's Fidelity Bonding Rule for exchange members it is necessary to name the specific exchanges in paragraph (a) of Appendix C.

The second amendment (new sub-section (b)2) permits an increased deductible in certain circumstances. The rule currently allows a member to include a maximum deductible of up to \$5000 or 10% of the minimum insurance requirement, whichever is greater. For example, a member who is required by the rule to carry a bond of \$100,000 could include a deductible of up to \$10,000. If a member wanted to purchase a larger bond than the rule requires the deductible could not exceed the maximum. In the example above, if the member wished to purchase a \$200,000 bond, the maximum deductible would still be limited to \$10,000.

The new amendment will allow a member who wishes to purchase a larger bond than is required by the rule to include a maximum deductible of 10% of the amount of the bond purchased rather than 10% of the amount of the bond required by the rule. To continue the example above, the member will now be able to include a maximum deductible of \$20,000 rather than \$10,000 in the \$200,000 bond.

The purpose of the amendment is to encourage members to purchase fidelity bonds with coverage greater than the required minimum, if a member believes that such increased protection is needed. With an increased maximum deductible a member who wants more than the minimum required coverage could pay a smaller premium than would have been possible for the same coverage using the original maximum deductible.

Members who buy more coverage and use the higher deductible will be self-insuring the risk of loss to a greater extent than before. In order to prevent the impairment of capital from losses amounting to less than the deductible, such members must deduct the difference between the required deductible and the actual deductible from their net worth in the calculation of their net capital under Rule 15c3-1. This deduction may be taken by the parent of a member where the parent is also a member and has guaranteed its subsidiary's net worth in writing.

Very truly yours,

A handwritten signature in cursive script, reading "Frank J. Wilson". The signature is written in dark ink and is positioned above the typed name.

Frank J. Wilson  
Senior Vice President  
Regulation

AMENDMENTS TO APPENDIX C, ARTICLE III  
SECTION 32 RULES OF FAIR PRACTICE  
(NEW LANGUAGE UNDERLINED)

APPENDIX C

Coverage Required

- (a) Each member required to join the Securities Investor Protection Corporation who ~~is subject to Rule 15c3-1 under the Securities Exchange Act of 1934 and~~ has employees and who is not a member in good standing of the American Stock Exchange, the Boston Stock Exchange, the Mid West Stock Exchange, the New York Stock Exchange, the Pacific Stock Exchange, the PBW Stock Exchange or the Chicago Board Options Exchange, shall:

(Balance of subsection (a) is unchanged)

Deductible Provision

- (b) (1) A deductible provision may be included in the bond of up to \$5000 or 10% of the minimum insurance requirement established hereby, whichever is greater.
- (2) If a member desires to maintain coverage in excess of the minimum insurance requirement then a deductible provision may be included in the bond of up to \$5000 or 10% of the amount of blanket coverage provided in the bond purchased, whichever is greater. The excess of any such deductible amount over the maximum permissible deductible described in paragraph (b) (1) above must be deducted from the member's net worth in the calculation of the member's net capital for purposes of Rule 15c3-1 under the Securities Exchange Act of 1934. Where the member is a subsidiary of another NASD member the excess may be deducted from the parent's rather than the subsidiary's net worth, but only if the parent guarantees the subsidiary's net capital in writing.

(No change in subsections (c) and (d))

NOTICE TO MEMBERS: 76-20  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

May 17, 1976

TO: All NASD Members

RE: Memorial Day-Holiday Settlement Schedule for  
Non-NCC Transactions

Securities Markets and the NASDAQ System will be closed on Memorial Day, Monday, May 31, 1976. Non-NCC transactions+ ("regular-way") made on the business days immediately preceding May 31 will be subject to the following schedule of settlement dates:

Settlement dates for "regular-way" transactions

<u>Trade Date</u>	<u>Settlement Date</u>	<u>7th Business Day++</u>
May 20	May 27	June 1
21	28	2
24	June 1	3
25	2	4
26	3	7
27	4	8
May 28	June 7	9
31 (Memorial Day)	--	--
June 1	8	10

+Members with NCC transactions should refer to NCC Important Notice for information which will be distributed shortly.

++Date for determining close out provisions under Section 220.4 (c) (2) of Regulation T of the Federal Reserve Board.

Questions regarding this notice may be directed to the Uniform Practice Division of National Clearing Corporation\*, Two Broadway, 8th Floor, New York, New York 10004. (212) 952-4018.

\*This notice, which applies to all NASD Members, has been issued by National Clearing Corporation. The Board of Directors of NCC interprets and enforces the provisions of NASD's Uniform Practice Code.

# NASD

NASDAQ NOTICE: 5-76

DFP

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

May 17, 1976

PLEASE DUPLICATE THIS NOTICE  
AND FORWARD COPIES TO TRADERS  
AND OTHER INTERESTED PERSONNEL

TO: NASDAQ LEVEL 2 AND 3 SUBSCRIBERS  
RE: AMENDMENTS TO SCHEDULE D

Enclosed herewith are amendments to Schedule D under Article XVI of the Association's By-Laws which will become effective immediately. The amendments were adopted by the Board of Governors and submitted to and approved by the Securities and Exchange Commission. The amendments cover the following areas:

1. Eligibility for Certain Types of Open-end Investment Companies
2. NASDAQ Financial Capability
3. NASDAQ Market Maker Maintenance Requirement
4. Fees for NASDAQ Level 1 Service
5. NASDAQ Suspension Procedures

## EXPLANATION OF AMENDMENTS

### 1. Eligibility for Open-end Investment Companies

Open-end investment companies which are not making a continuous offering of their shares and/or are not making a similar offering through an underwriter are now eligible for inclusion in NASDAQ. Generally, these are securities which are redeemable by the issuer but are also traded in the over-the-counter market with bid and ask quotations.

All securities of open-end investment companies that are authorized for inclusion in the NASDAQ System will be assigned a five(5) character symbol in which the fifth character

will always be the letter M. As with all issues having a five character symbol, the second line of Level 2 and 3 screens will convey a description of the issue. In the case of open-end investment companies, the corporate description will be very brief and followed by the notation, SEE NAV.

Members should note therefore that two selling markets exist for this type of security and they are under an obligation to secure the best market and best execution for their customers.

The notation SEE NAV and the following underscored language will appear in future editions of the NASDAQ Symbol Directory.

Members executing customer sales transactions should be aware that the issuer of the shares is a registered investment company and that the shares are redeemable by the issuer at the net asset value next computed after proper notice of redemption and/or delivery of the certificates in good form.

Members should note the Board of Governors' Interpretation with respect to the Execution of Retail Transactions in the Over-the-Counter Market which requires members and persons associated with members to use reasonable diligence to ascertain the best market for the security and to buy or sell in that market so that the price to the customer is as favorable as possible under prevailing market conditions.

## 2. NASDAQ Financial Capability

The Board of Governors believes that the market maker net capital requirements contained in the recently adopted amendments to SEC Rule 15c3-1 (Uniform Net Capital Rule) renders the special NASDAQ net capital requirements unnecessary and, therefore, the net capital requirements contained in Part IC(3)(a) of Schedule D have been eliminated. Market makers must comply with the provisions of amended Rule 15c3-1 which requires net capital of \$2,500 for each security having a market value of \$5 or more in which a broker/dealer makes a market (or \$500 per security with a market value of less than \$5) with a minimum net capital requirement of \$25,000 and a maximum of \$100,000.

### 3. NASDAQ Market Maker Maintenance Requirement

The amendments to Part II B (3)(g) and Part II C (2)(e) of Schedule D reduce the minimum number of registered NASDAQ market makers required for an authorized security to remain in the System from two market makers to one. The requirement that there be a minimum of two registered NASDAQ market makers in an authorized security before quotations are disseminated to Level 1 subscribers has not been changed and, therefore, quotations of securities having one registered NASDAQ market maker will appear only on Level 2 and 3 terminals.

### 4. Fees For NASDAQ Level 1 Service

The amendment to Part IV A. of Schedule D clarifies the charges imposed for receiving NASDAQ Level 1 service. The charges for receiving Level 1 service are \$20 per month for the first terminal and \$10 per terminal per month for each additional terminal. The amendment provides that reduced charges for additional Level 1 terminals are available to a subscriber only when the additional terminals are from the same distributor as the first terminal. This was the intent of the paragraph when originally adopted and the amendment is for clarification purposes only.

### 5. NASDAQ Suspension Procedures

The Board of Governors has adopted a new Part VIII to Schedule D of the By-Laws which provides a procedure for the Association to summarily limit or prohibit access of a market maker or issuer to the NASDAQ System if a market maker has been and is expelled or suspended from being associated with a member of any self-regulatory organization; a market maker is in such financial or operating difficulty that the Association determines and so notifies the Securities and Exchange Commission that such market maker cannot be permitted to display on or enter quotations into the NASDAQ System with safety to investors, creditors, other members, or the corporation; or the Association determines that a security does not meet the qualification requirements for authorized securities and

that quotations of such security cannot be permitted to continue to be displayed on or entered into the NASDAQ System with safety to investors, creditors, members, or the Corporation.

The procedure provides for the right to a hearing, a written decision, review by the Association's Board of Governors and application to the Securities and Exchange Commission for a stay and/or review.

The 1975 Amendments to the Securities Exchange Act give the Association the authority to take such summary action and the amendment to Schedule D outlines the procedure the Association must follow when such action is taken.

TEXT OF AMENDMENTS

NOTE: New language indicated by underlining  
Deleted language indicated by [brackets]

1. Eligibility for Certain Types of Open-end Investment Companies

Part II B(1)(d)

1. A security shall be eligible to be an authorized security if it is:

d. [registered under the Securities Act and issued by a closed-end management investment company registered under Section 8 of the Investment Company Act.]

d. issued by an investment company registered under the Investment Company Act of 1940, provided that the issuer or underwriter of, or any dealer in, the security is not currently engaged in a distribution of such security which subjects such issuer, underwriter, or dealer to the provisions of Section 22(d) of that Act, and provided further that transactions in such shares, other than redemptions or repurchases by or on behalf of the issuer, are exempted from or not subject to Rule 22c-1 adopted under the Act.



2. NASDAQ Financial Capability

Part I C(3)(a)

Paragraph (a) will be removed and paragraphs (b) through (e) redesignated.

[ a) Financial capability. A registered market maker must continually maintain a net capital of \$50,000 or a net capital of \$5,000 for each security in which it is registered as a market maker, whichever is less. Net capital shall be determined as provided in paragraph (c)(2) of Commission Rule 15c3-1. Further, the registered market maker must furnish such additional financial information as may be requested by the Corporation.]

3. NASDAQ Market Maker Maintenance Requirement

Part II B(3)(g)

g. in the case of a security not yet authorized, there shall be fewer than two market makers registered, one of which may be a market maker entering a stabilizing bid; [registered in the security;] in the case of an authorized security there shall be fewer than one market maker registered.

Part II C(2)(e)

e. in the case of a security not yet authorized, there shall be fewer than three market makers registered; [in the security;] in the case of an authorized security there shall be fewer than one market maker registered.

4. Fees for NASDAQ Level 1 Service

Part IV A

A. Level 1 Service

The charge to be paid by the subscriber for each terminal capable of receiving this service is \$20 per month.

Where more than one terminal from a distributor serves a single subscriber and where all of the terminals are on the same premises, the charge for the second and each additional terminal from the same distributor shall be \$10 per terminal per month.

5. NASDAQ Suspension Procedures

NEW PART VIII

PROCEDURES ON LIMITATION OF ACCESS TO THE NASDAQ SYSTEM

A. Summary Action

1. The Corporation may summarily limit or prohibit the authority of a market maker to display on or enter quotations into the NASDAQ System if:
  - a. Such market maker has been and is expelled or suspended from being associated with a member of any self-regulatory organization, or
  - b. Such market maker is in such financial or operating difficulty that the Corporation determines and so notifies the Securities and Exchange Commission that such market maker cannot be permitted to display on or enter quotations into the NASDAQ System with safety to investors, creditors, other members, or the Corporation.
2. The Corporation may summarily limit or prohibit the authorization of a security if the Corporation determines that such security does not meet the qualification requirements for authorized securities and that quotation of such security cannot be permitted to continue to be displayed on or entered into the NASDAQ System with safety to investors, creditors, members, or the Corporation.

B. Written Notification

Any market maker or issuer which the Corporation takes summary action against pursuant to paragraph A above shall be notified in writing of such action and such notification shall contain a statement of the specific grounds on which such action is taken. Such summary action shall be effective on the date of written notification.

C. Request for Hearing

Any market maker or issuer which the Corporation takes summary action against may request an opportunity for a hearing within ten(10) days of the date of notification pursuant to paragraph B above. Such hearing shall be held within five(5) days of such request. A request for a hearing shall not operate as a stay of the summary action.

D. Hearing

If a hearing is requested pursuant to paragraph C above, it shall be held before a person or persons designated by the Board of Governors. Such market maker or issuer shall be entitled to be heard in person and represented by counsel and to submit any relevant matter which they may desire to present. Counsel for the Corporation or other designated Corporation personnel may participate in such hearing and be entitled to submit any relevant matter which they may desire to present. In any such proceeding, a record shall be kept.

E. Decision

A written decision shall be issued within five(5) days of the date of the hearing, and a copy shall be sent to the market maker or issuer. A written decision shall contain the reasons supporting the action taken.

F. Review by Board

1. If the market maker or issuer does not request an opportunity for a hearing pursuant to paragraph C above, the notification of summary action shall be subject to review by the Board of Governors on its own motion within thirty(30) days of the date of the notification.

2. The written decision issued pursuant to paragraph E above shall be subject to review by the Board of Governors upon application of the market maker or issuer, filed within fifteen(15) days after issuance. Any such decision shall also be subject to review by the Board of Governors on its own motion within thirty(30) days after issuance.
3. The institution of review, whether by application or on the initiative of the Board, shall not operate as a stay of the summary action.

G. Findings of Board on Review

Upon consideration of the record and after further hearings as the Board of Governors shall order, if the Board shall find that the notification or written decision is inconsistent with the grounds for authorization of summary action contained in paragraph A above, the Board shall, in writing, modify, amend, or abrogate such notification or decision, or remand the matter for further proceedings consistent with its instructions. The Board shall set forth specific grounds upon which its determination is based.

H. Procedures on Limitation of Access

The Procedures on Limitation of Access to the NASDAQ System are not intended to foreclose action by the Corporation under Schedule D or by the District Business Conduct Committee of the District in which the market maker is located under the Code of Procedure for Handling Trade Practice Complaints where a violation of the Rules of Fair Practice may be involved.

I. Application to Commission for Stay of Summary Action

Any market maker of issuer aggrieved by summary action taken by the Corporation may apply to the Securities and Exchange Commission for a stay of such summary action as permitted by Section 15A of the Securities Exchange Act of 1934 as amended.

J. Application to Commission for Review

In any case where a market maker or issuer feels aggrieved by any action taken or approved by the Board of Governors,

such person or member may make application for review to the Securities and Exchange Commission in accordance with Section 19 of the Securities and Exchange Act of 1934 as amended.

Part I C(7)(a) and (b)

Paragraph (a) will be deleted leaving only modified paragraph (b).

[a] Suspension. In extraordinary circumstances where required to promote just and equitable principles of trade, the Corporation, upon notice, may suspend a registered market maker's authority to enter quotes into the System for up to two consecutive business days following the Corporation's action. If the Corporation is engaged in an investigation of the registered market maker's activities in connection with the suspension of quotes, and such investigation has not been completed by the end of the suspension period, the Corporation may extend the suspension for an additional two consecutive business days.]

[b] Termination.] The Corporation may, pursuant to the procedures set out in [Paragraph] Parts VI, VII, or VIII below, suspend, condition, limit, prohibit, or terminate the registered market maker's authority to enter quotes on one or more authorized securities for violations of the applicable standards of this Schedule "D" or if the Corporation makes a determination as provided in Part VIII A.

Any questions regarding the above amendments should be directed to the NASDAQ Department in Washington, D.C., telephone (202) 833-7210.

Sincerely,



Richard Peters  
Vice President  
NASDAQ Operations

NOTICE TO MEMBERS: 76-21  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

## NOTICE

To: Members of the National Association of  
Securities Dealers, Inc.

Date: May 27, 1976

Re: Adoption of Amendments to Schedule G Under  
Article XVIII of the By-Laws -- Reporting  
Transactions to the Consolidated Tape

Enclosed herewith are amendments to Sections 1(a)(2) and 1(b)(2) of Schedule G under Article XVIII of the Association's By-Laws which will become effective on June 1, 1976. The amendments were adopted by the Association's Board of Governors and submitted to and approved by the Securities and Exchange Commission.

The amendments provide that principal transactions executed by members in the over-the-counter market which are required to be reported to the Consolidated Tape be reported at the price recorded on the trade ticket without taking into account any commission, commission equivalent, or differential imposed in connection with the transaction. The amendments eliminate the present disparity between the reporting of principal transactions executed in the over-the-counter market and the reporting of identical transactions executed on exchanges which are currently reported without taking into account such charges.

Sincerely,



Thomas D. Walsh  
Secretary

Text of Amendments

deleted language indicated by brackets

Section 1(a)(2)

Designated Reporting Members shall transmit last sale reports for eligible securities for all purchases and sales in such securities except transactions for less than a round-lot at the price recorded on the trade ticket exclusive of commissions, taxes or other charges. [provided however, that principal transactions which are effected at a price plus or minus a commission, commission equivalent, or differential shall be reported at the net price after addition or subtraction of the commission, commission equivalent, or differential.]

Section 1(b)(2)

Nondesignated Reporting Members shall transmit last sale reports for eligible securities for all purchases and sales in such securities except transactions for less than a round-lot at the price recorded on the trade ticket exclusive of commissions, taxes or other charges. [provided however, that principal transactions which are effected at a price plus or minus a commission, commission equivalent, or differential shall be reported at the net price after addition or subtraction of the commission, commission equivalent, or differential.]

NOTICE TO MEMBERS: 76-22  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

June 21, 1976

To: All NASD Members

Re: I. July 5th - Holiday Settlement Schedule  
II. Dividend Claims to Depository Trust Company

Securities markets and the NASDAQ System will be closed on Monday, July 5, 1976, the observance of Independence Day. Non-NCC transactions<sup>+</sup> made on the business days immediately preceding July 5th will be subject to the schedule of settlement dates below:

Attached for your information is a recent announcement from the Depository Trust Company (DTC) dealing with dividend claims made to DTC.

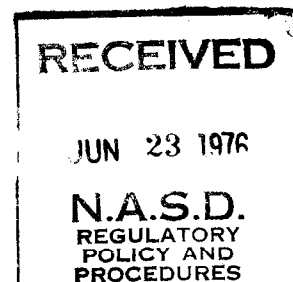
<u>Settlement dates for "regular-way" transactions</u>		
<u>Trade Date</u>	<u>Settlement Date</u>	<u>7th Business Day<sup>++</sup></u>
June 24	July 1	July 6
25	2	7
28	6	8
29	7	9
30	8	12
July 1	9	13
2	12	14
5	Independence Day Observed	-
6	13	15

<sup>+</sup> Members with NCC transactions should refer to NCC Important Notice which will be distributed shortly.

<sup>++</sup> Date for determining close-out provisions under Section 220.4 (c) (2) of Regulation T of the Federal Reserve Board.

Questions regarding this notice may be directed to the Uniform Practice Division of National Clearing Corporation\*, Two Broadway, 8th Floor, New York, New York 10004. (212) 952-4018.

\*This notice, which applies to all NASD Members, has been issued by National Clearing Corporation. The Board of Directors of NCC interprets and enforces the provisions of the NASD's Uniform Practice Code.





# THE DEPOSITORY TRUST COMPANY

## IMPORTANT

B2726

June 3, 1976

To: All Participants

Attention: Managing Partner/Officer, Dividend Manager

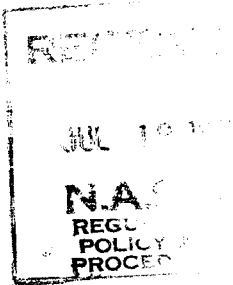
Subject: Dividend Claims

On August 1, 1975 DTC inaugurated a test procedure under which DTC would accept from non-DTC Participants formal cash dividend claims valued at \$25.00 or less, when accompanied by a photocopy of the certificate (front and back). Claims in excess of \$25.00 submitted by non-DTC Participants continued to require that they be supported by either the physical presentation of certificates or a Confirmation of Registration signed by the appropriate transfer agent. This test procedure for claims valued at \$25.00 or less recognized that the costs of securing Confirmations of Registration were often a disincentive to the filing of dividend claims for small dollar amounts.

Based on a favorable evaluation of the test period, DTC will, effective July 1, 1976 expand the procedure to include non-Participant cash dividend claims having a value of \$100.00 or less. Claims submitted by non-DTC Participants in excess of \$100.00 must continue to be accompanied by either the physical certificates themselves or Confirmation of Registration from transfer agents.

Claimants are cautioned against "breaking up" claims in excess of \$100.00 to take advantage of the new procedure, since all claims will be closely monitored. If this practice is noted, the respective claims will be rejected to the claimant for re-submission with the appropriate proof. DTC reserves the right to disallow this procedure to any claimant who, in DTC's opinion, has abused the procedure.

Arnold Fleisig  
Vice President



NOTICE TO MEMBERS: 76-23  
Notices to Members should be retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 12, 1976

TO: All NASD Members

RE: Quarterly Check List of Notices to Members (Second Quarter, 1976)

Topically indexed below are the Notices to Members which have been issued during the second quarter of 1976.

The "Reference" column on the right gives the numbers of Notices to Members which were issued on the corresponding topic, during the first quarter of 1976.

<u>Topic</u>	<u>Serial No. and Summary Description</u>	<u>Date</u>	<u>Reference</u>
Check List of Notices	76-16 Quarterly Check List (First Quarter, 1976)	4/5/76	76-2
Clearing	76-15 Mail Vote on Proposed Amendment - Article XVII of the NASD By-Laws: Proposed Combination of Clearing Facilities	4/1/76	76-12
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	76-21 Amendments to Schedule G under Article XVIII of the By-Laws	5/27/76	76-10
Fidelity Bonding	76-19 Amendments to Fidelity Bonding Rule	5/10/76	
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Lost Securities	76-13 New York State Housing Finance Agency and New York State Dormitory Bearer Bonds	4/1/76	
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Members should note that only one copy of each Notice to Members is mailed to every main office of every member. Copies are not mailed to branch offices or to additional personnel in the main office other than the Executive Representative. Therefore, we suggest that all members retain the original copy of each Notice to Members in a separate file in their main office, and that copies needed for internal or branch office distribution be duplicated from the original Notice.

If your main office file is missing any of the above notices, please write to the Office Services Administrator at the NASD Executive Office. Requests for copies should be accompanied by a self-addressed label.

\* \* \* \* \*

NOTICE TO MEMBERS: 76-24  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

July 22, 1976

## IMPORTANT

### MAIL VOTE

Officers \* Partners \* Proprietors

TO: All NASD Members

RE: Mail Vote on New Article III, Section 36 of the Rules  
of Fair Practice Concerning Transactions in Options

Last Voting Date is August 22, 1976

Enclosed herewith is proposed new Article III, Section 36 of the Association's Rules of Fair Practice concerning a member's transactions in options. The new rule must be approved by the membership and must be submitted to and approved by the Securities and Exchange Commission prior to becoming effective.

On February 10, 1976, in Notice to Members No. 76-8, the Board of Governors published for membership comment proposed amendments to Appendix "A" of Article III, Section 30, of the Rules of Fair Practice and to Schedule "C" of Article I, Section 2(d) and Schedule "D" of Article XVI, Section 3 of the Association's By-Laws and proposed new Article III, Section 36 and Appendix "E" thereto of the Rules of Fair Practice. The aforementioned rule amendments and proposals relate primarily to the Association's NASDAQ Options Project.

The Association's NASDAQ Options Project would provide for the display of quotations in standardized options on the NASDAQ System. These options would be issued by the Options Clearing Corporation. The proposal also contemplates that quotations may only be entered in this System by qualified registered options market makers. Options to be displayed will be limited to options authorized by the Association in underlying securities selected in accordance with the guidelines and requirements of the Options Clearing Corporation.

The terms of these options would be standardized as to exercise price and expiration date in accordance with the by-laws and rules of the Options Clearing Corporation. Accordingly, settlement and clearance would be accomplished through the facilities of the Options Clearing Corporation. The Association presently envisions that comparison will be accomplished through a third party processor and that matched trades will be forwarded to the Options Clearing Corporation on a daily basis in accordance with its by-laws and rules.

The background and complete description of the NASDAQ options plan, as well as explanations of the various regulations necessary to implement such, are delineated more fully in Notice to Members No. 76-8, dated February 10, 1976.

Subsequent to the close of the comment period for the NASDAQ Options Project rule proposals, on March 16, 1976, the Board of Governors reviewed the original rule amendments and proposals, taking into consideration comments received by the membership, and has made appropriate revisions thereto. With respect to the proposed amendments to Schedule "C" of Article I, Section 2(d) and Schedule "D" of Article XVI, Section 3 of the By-Laws and to Appendix "E" to Article III, Section 36 of the Rules of Fair Practice, the revisions were such that the Board has deemed it necessary to resubmit them to the membership for additional comment. A notice to members concerning these revised proposals will be forthcoming in the near future.

With respect to proposed Article III, Section 36 and the proposed amendments to Appendix "A" of Article III, Section 30, no substantive comments were received. The Board therefore did not revise these two proposals and they remain unchanged from those which appeared in Notice to Members No. 76-8. Even though all of the five proposals contained in that notice must be submitted to and approved by the SEC prior to becoming effective, only proposed Article III, Section 36 must, pursuant to the provisions of Article VII of the Association's By-Laws, be voted upon and approved by the membership. Therefore, the present mail vote pertains solely to that proposed rule.

This proposed Rule of Fair Practice is important and merits your immediate attention. Please mark your ballot according to your convictions and return it in the enclosed, stamped envelope to "The Corporation Trust Company." Ballots must be postmarked no later than August 22, 1976.

The Board of Governors believes this Rule of Fair Practice is necessary and appropriate in the public interest and recommends that members vote their approval.

Sincerely,



Gordon S. Macklin  
President

Explanation of Proposed Article III, Section 36 of  
the Rules of Fair Practice

Section 36 would be a new Rule of Fair Practice of the Association. Subsection (a) of the rule would prohibit a member or a person associated with a member from effecting transactions in options if such were inconsistent with the rules, regulations and procedures adopted by the Board of Governors pursuant to authority granted to it by subsection (b) of the rule.

Subsection (b) would delegate to the Board authority to adopt such rules, regulations and procedures for the governance of options trading as may, from time to time, be deemed by the Board to be necessary for the protection of investors and in the public interest. The areas in which the Board would be authorized to promulgate rules are set forth in subsection (b). The authority thereby granted to the Board would enable it to develop a regulatory program consistent with existing standardized options trading plans and SEC requirements. Further, it would authorize the Board to adopt rules concerning traditional over-the-counter options and rules in respect to non-exchange NASD member firms doing business in exchange listed options on an "access basis."

Subsection (c) would provide for the adoption by the Board of an Appendix E to the Rules of Fair Practice. Appendix E would contain the rules, regulations and procedures authorized by subsection (b). Further, subsection (c) would authorize the Board to adopt and amend the provisions of Appendix E without recourse to the membership for approval.

Subsection (d) would define the term "option" for purposes of subsections (a), (b) and (c) of Section 36. The definition would encompass conventional or traditional over-the-counter options, as well as options issued by or subject to issuance by the Options Clearing Corporation.

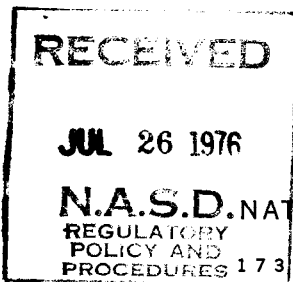
Text of Proposal

Article III, Section 36

- (a) A member or a person associated with a member shall not effect any transaction in an option contract, including an option displayed on the NASDAQ System, except in accordance with the provisions of rules, regulations and procedures adopted by the Board of Governors pursuant to the authorization granted in subsection (b) hereof.

- (b) The Board of Governors is authorized, for the purpose of preventing fraudulent and manipulative acts and practices, promoting just and equitable principles of trade, providing safeguards against unreasonable profits or unreasonable rates of commission or other charges, and for the protection of investors and the public interest, to adopt rules, regulations and procedures for transactions in options relating to:
- (1) transactions in option contracts, including options displayed on the NASDAQ System, by members for their own account or the accounts of public customers;
  - (2) the comparison - clearance and settlement of transactions in options;
  - (3) the reporting of transactions in options;
  - (4) the qualifications and standards for registered market makers in options;
  - (5) the standards for authorization of underlying securities eligible to be subject to options displayed on the NASDAQ System;
  - (6) the endorsement and guarantee of performance of options; and,
  - (7) such other areas of options activity and trading as may be required to achieve the above stated purposes.
- (c) The rules, regulations and procedures authorized by subsection (b) hereof shall be incorporated into Appendix E to be attached to and made a part of these Rules of Fair Practice. The Board of Governors shall have the power to adopt, alter, amend, supplement or modify the provisions of Appendix E from time to time without recourse to the membership for approval, as would otherwise be required by Article VII of the By-Laws, and Appendix E shall become effective as the Board of Governors may prescribe unless disapproved by the Securities and Exchange Commission.
- (d) For the purposes of this section, the term "option" shall mean any put, call, straddle or other option or privilege of buying a security from or selling a security to another without being bound to do so, but shall not include any tender offer, registered warrant, right, convertible security or any other option in respect to which the writer is the issuer of the security which may be purchased or sold upon the exercise of the option.

NOTICE TO MEMBERS: 76-25  
Notices to Members should be retained for future reference.



**NASD**

July 23, 1976

IMPORTANT

TO: All NASD Members  
ATTN: Registration and Compliance Personnel  
RE: Adoption of SEC Rule 17f-2 and NASD Implementation Thereof

Summary

- SEC Rule 17f-2 requiring fingerprinting of certain securities industry personnel, among others, was effective July 1, 1976. A copy of the text of the rule is enclosed.
- Personnel employed after July 1, 1976 who are subject to the rule are required to be fingerprinted as a condition of employment. In this regard, the SEC rule contemplates a reasonable period of time after employment of such personnel for satisfaction of the fingerprinting requirement. Personnel employed prior to July 1, 1976 who are subject to the rule are exempt from the fingerprinting requirement until January 1, 1977.
- Exemptions to the rule are available to securities industry personnel who are required to be fingerprinted pursuant to certain state laws. Further exemption is available to firms which submit fingerprint record cards through a self-regulatory organization approved by the SEC.
- An NASD plan for processing fingerprint record cards of its membership was approved by the SEC on June 23, 1976.
- Under the NASD plan, any member may submit fingerprint record cards for processing by the Attorney General to either the NASD Executive Office or the local District Office. Presently no fee for this processing will be in effect. The Association will implement a cost study relative to the fingerprinting program which will be



submitted to and approved by the Board of Governors prior to implementation.

- The NASD District Offices intend to assist the membership in implementation of the fingerprinting programs by providing staff to roll the fingerprints of those subject to the rule.
- Fingerprint record cards and necessary instructions are enclosed. Further information is available at the NASD Executive Office in Washington, D. C. or at your local NASD District Office.

On March 16, 1976, the Securities and Exchange Commission in Release No. 12214 announced the adoption of Rule 17f-2 providing certain exemptions from the requirements of Section 17(f)(2) of the Securities Exchange Act of 1934 (Act). This section of the Act mandates that every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency require that each of its partners, directors, officers, and employees be fingerprinted and submit such fingerprints for processing by the Attorney General of the United States. The Commission's rule, which was effective July 1, 1976, exempts certain classes of personnel from the fingerprinting requirement but provides that persons who are engaged in the sale of securities, persons who have access to the handling or processing of securities or monies or original books and records relating thereto, or persons who directly supervise the aforementioned personnel be fingerprinted. To assist members in their understanding of the rule, a copy of the text of Rule 17f-2 is enclosed for your review.

It should be noted that paragraph (b) of the Commission's rule further exempts personnel who are fingerprinted pursuant to any law, rule or regulation of any state, the Federal Government, or respective agencies thereof which transmit such fingerprints to the Attorney General of the United States for identification and appropriate processing. In this connection, personnel who are fingerprinted pursuant to the laws of the states of Arizona, Arkansas, Colorado, Idaho, New Jersey, New York or the District of Columbia are exempt from the provisions of recently adopted SEC Rule 17f-2.

Paragraph (c) of SEC Rule 17f-2 provides an exemption to organizations which submit fingerprints to a self-regulatory organization which forwards the fingerprints to the Attorney General of the United States pursuant to a plan filed with and approved by the Commission. In this connection as a service to the members, the Association's Board of Governors approved the submission of a plan to the SEC. The plan of the NASD was approved by the Commission on June 23, 1976. Therefore, all NASD members may satisfy the provisions of paragraph (a) of SEC Rule 17f-2 through submission of fingerprint record cards to the Association which will process such through the Attorney General of the United States. At the present time, the Association

intends to perform the fingerprint processing for the membership without charge. As the program progresses, a cost study relative to the fingerprinting program will be performed by the staff and reviewed by the Association's Board of Governors and a determination of processing fees made at that time.

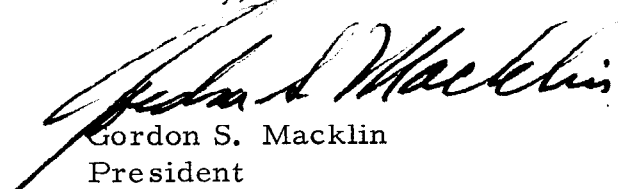
The provisions of this plan would enable the membership to fingerprint or cause to have fingerprinted all personnel who are employed after July 1, 1976 and submit these records to the NASD Executive Office in Washington, D. C. or through the local NASD District Office, whichever is more convenient, for transmittal to the Attorney General. In this connection, the Commission's rule and the NASD plan approved thereunder provide for a phase-in period for implementation of the fingerprinting program in order that efficient and orderly processing might result. The rule thus contemplates that persons employed by or associated with such entities prior to July 1, 1976 will not be fingerprinted until after January 1, 1977. It should be noted that the SEC rule contemplates that an entity subject to SEC Rule 17f-2 be provided a reasonable period of time after an individual's employment to satisfy the fingerprinting requirement. A schedule for submission of fingerprint records for individuals employed prior to July 1, 1976 will be provided each member by the NASD after SEC approval of such.

After receipt of the fingerprint record cards from the membership, the NASD will transmit same to the Attorney General for processing. These records would be returned to the NASD after review by the Attorney General. In all cases, the NASD will return the reviewed fingerprint record card and attendant criminal history information, as applicable, to the member submitting such.

In a related area, the Association with the cooperation of the Attorney General's Office intends to train District staff personnel to roll fingerprints of personnel subject to SEC Rule 17f-2. These District staff personnel will be available to assist each member in compliance with the fingerprinting requirement. The membership will be advised shortly of the date of implementation of this phase of the fingerprinting program.

Enclosed herewith are blank transmittal forms and fingerprint record cards for use in obtaining fingerprints of employees hired after July 1, 1976. Instructions for completion of these documents are also enclosed. Questions regarding the matters discussed herein may be directed to Mr. Joseph Hill, Assistant Director, Membership Department, at (202) 833-7184 or the NASD District Office located in your area.

Sincerely,

  
Gordon S. Macklin  
President

34-12214 3/16/76

Text of Rule 17f-2

(a) Every person who is a partner, director, officer or employee of a member of a national securities exchange, broker, dealer, registered transfer agent, or registered clearing agency is required to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General of the United States for identification and appropriate processing except that persons who meet all the conditions below shall be exempt:

- (1) who are not engaged in the sale of securities;
- (2) who do not have access to the handling or processing of securities or monies or original books and records relating thereto; and
- (3) who do not have direct supervisory responsibility over persons engaged in the above activities.

Provided, that in the case of a registered transfer agent only those persons who engage in transfer agent activities and who do not meet all the conditions enumerated in subparagraphs (a)(1) through (a)(3) above are subject to the requirements of this paragraph.

(b) Those persons not exempted under paragraph (a), who are fingerprinted pursuant to any other law, rule, or regulation of any state, the Federal government, or respective agencies thereof, and submit, or cause to be submitted, such fingerprints to the Attorney General of the United States for identification and appropriate processing, may satisfy the requirements of paragraph (a) by compliance with such other law, rule, or regulation.

(c) Those persons not exempted under paragraphs (a) or (b) may satisfy the requirements of paragraph (a) by submitting their fingerprints to a registered national securities exchange or a registered national securities association which forwards said fingerprints to the Attorney General for identification and appropriate processing pursuant to a plan filed with the Commission by a registered national securities exchange or a registered national securities association. Such plan shall not become effective unless the Commission, having due regard for the public interest and the protection of investors, declares the plan to be effective. Furthermore, the Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

(d) Every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency shall maintain, with regard to every person required to be fingerprinted under paragraph (a) of this rule, the processed fingerprint card, or other record when the card is not returned after processing. Such record shall state who rolled the fingerprints, on what date, the date the card was submitted to the Attorney General, and information, if any, received from the Attorney General as a result of this process, and shall be retained for a period of three years after termination of employment or association of such person. Such records shall be kept in an easily accessible place and shall be made available to the Commission and other examining authority upon request.

(e) Every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency shall submit to the Commission's principal office in Washington, D. C. and to the regional office of the Commission for the region in which the organization has its principal place of business, not later than July 1, 1976, a statement, to be entitled "Notice Pursuant to Rule 17f-2," of those classes of persons who fall within the exemptions listed in paragraph (a), and hence are sought to be exempted from the fingerprinting requirements of section 17(f)(2) of the Act. Such statement shall indicate the nature of the duties performed by such classes of persons and shall describe the measures which the organization has employed to ensure that only persons complying with the requirements of this rule have access to the handling or processing of securities or monies or original books and records relating thereto. Classes of persons so identified shall be exempt from the requirements of section 17(f)(2) unless the Commission notifies the organization to the contrary.

A copy of such statement shall be available for inspection by the Commission and other examining authority at the principal office of the member, broker, dealer, registered transfer agent, or registered clearing agency. The statement shall be amended whenever there is a substantial change in the organizational structure of the entity affecting the status of classes of persons who may be exempt under paragraph (a).

(f) Every person who is a partner, director, officer, or employee of a member of a national securities exchange, broker, dealer, registered transfer agent, or registered clearing agency, and who is required to be fingerprinted pursuant to paragraph (a) of this rule, and who was employed by or associated with such organization prior to July 1, 1976, shall be exempt from the provisions of paragraph (a) until January 1, 1977.

(g) The Commission, upon specified terms, conditions, and periods, may grant exemptions to any class of partners, directors, officers, or

employees of any member of a national securities exchange, broker, dealer, registered transfer agent, or registered clearing agency, if the Commission finds that such action is not inconsistent with the public interest or the protection of investors.

NOTICE TO MEMBERS: 76-26  
Notices to Members should be  
retained for future reference.

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

July 26, 1976

## I M P O R T A N T

TO: All NASD Members

RE: Arab Boycott

In early 1975, Congressional concern was expressed with regard to asserted attempts by underwriting firms in countries comprising the League of Arab States to directly or indirectly approve or disapprove the participation by certain U. S. investment banking firms in the syndication of certain Euro-bond offerings. Shortly thereafter, the Securities and Exchange Commission made inquiry of the Association as to whether involvement by NASD members in such activities would be considered by the Association to be in violation of its rules. The Commission further requested that the NASD report on any known instances involving members of the Association in such activities.

In February, 1975, a special meeting of the Association's Committee on Corporate Financing was held to review the SEC's request and to consider what action, if any, should be taken in respect to any instance in which an NASD member acted to exclude another member or members from participating in an underwriting syndicate as a result of pressure from an external source.

The Association's Corporate Financing Committee, which is composed of 15 individuals who are actively engaged in various aspects of the investment banking business, concluded that participation by a member in a boycott of the type described above against another member or members would be conduct inconsistent with high standards of commercial honor and just and equitable principles of trade and, as such, would violate Article III, Section 1 of the Association's Rules of Fair Practice. It thus concluded that members participating in such activity could be subject to disciplinary action. 1/

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1/ See Securities Exchange Act of 1934, Release No. 11860, dated Nov. 20, 1975, for the Securities and Exchange Commission's position on this subject.

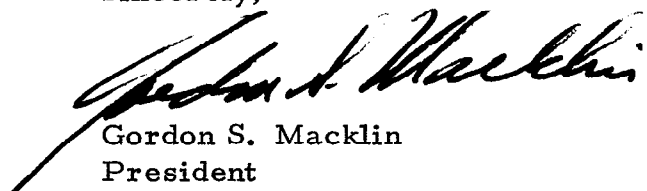
Shortly thereafter, the Association initiated an investigation of certain syndicate offerings including several in which certain Arab broker-dealers acted in the capacity of underwriter. Being Euro-bond offerings, these issues were exempt from the registration provisions of the Securities Act of 1933 and, as such, were not subject to the filing requirements of the SEC or those of the NASD.

This investigation, which spanned several months, uncovered a few isolated instances in which certain NASD members, or their affiliates, complied with the boycott demands of certain of the Arab League firms who were co-managers. Because of this, several NASD members and non-member European investment banking firms were excluded from participating in underwriting syndicates. The investigation further disclosed that the managing underwriters who complied with the boycott demands of the Arab League firms utilized a substitution procedure. This practice called for the replacement of boycotted European firms by domestic NASD-member affiliates of the boycotted firms or the substitution of a foreign affiliate for a boycotted NASD member. From all indications, it appeared that the substituted affiliate, regardless of whether it was a domestic NASD member or a foreign affiliate, participated in the underwriting to the same extent as the boycotted firm would have participated.

The report of the investigation was subsequently reviewed by one of the Association's District Business Conduct Committees. It was the view of the Committee that all boycott practices, including those involving substitutions, are violative of Article III, Section 1 of the Association's Rules of Fair Practice and that these activities are inconsistent with high standards of commercial honor and just and equitable principles of trade.

The Board of Governors has reviewed the Committee's findings and has accepted its conclusion. Therefore, the Board of Governors wishes to advise members that any activity of the type described above constitutes conduct inconsistent with high standards of commercial honor and just and equitable principles of trade and is viewed by the Board as constituting a violation of Article III, Section 1 of the Rules of Fair Practice.

Sincerely,



Gordon S. Macklin  
President

# NASD

NOTICE TO MEMBERS: 76-27  
Notices to Members should be  
retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 16, 1976

## NOTICE

To: All NASD Members  
(Attention: Underwriting Departments and  
Financial Officers)

Re: Prompt Settlement of Underwriting Accounts  
Among Underwriters

It has come to the attention of the Board of Governors of the Association that some managing underwriters have not been diligent in promptly settling their underwriting accounts with members of the underwriting group. These delayed settlements have, on occasion, placed a needless demand on the capital of firms to whom the funds were owed.

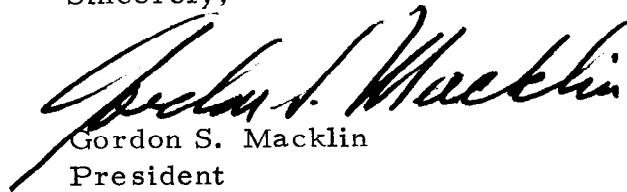
The Association's Corporate Financing Committee, as a result of a number of member complaints, has studied a sampling of offerings to determine the extent of the problem and has found that a high percentage of offerings are not being settled within a reasonable time period. The delay is caused in some instances by neglect or inattention. More often, however, it results because payment to the underwriting accounts are withheld until all billings have been received. Delayed billings by professional people, such as lawyers and accountants, for their services in connection with the offering appear to be a primary cause. Thus, proportions of the funds due members of the underwriting group are withheld unnecessarily for lengthy periods.

The Board believes these long delays in settlements, some of which have extended beyond six months, are inconsistent with good industry practice and business ethics. Consequently, it believes that a member has the obligation to settle outstanding syndicate accounts within a reasonable period of time. Therefore, the Association's Board of Governors recommends that all members acting as underwriters in offerings of securities establish as their firm's policy a system of assuring that all underwriting fees and accounts between members of the underwriting group will be settled within ninety (90) days of the settlement of the offering with the issuer.



The Association intends to monitor this problem to see that efforts are being made by the membership to discontinue these prolonged settlements and comply with the suggested guide. The Board of Governors does not believe that regulatory proposals to control this problem are necessary or desirable at this time and, therefore, requests the membership's cooperation to control this matter.

Sincerely,



Gordon S. Macklin  
President

# NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 18, 1976

TO: All NASD Members

RE: Labor Day, Monday, September 6, 1976 - Holiday  
Settlement Schedule for Non-NCC Transactions

Securities markets and the NASDAQ system will be closed on Labor Day, Monday, September 6, 1976. Non-NCC transactions + ("regular way") made on the business days immediately preceding September 6 will be subject to the following schedule of settlement dates:

Settlement dates for "regular-way" transactions

<u>Trade Date</u>	<u>Settlement Date</u>	<u>7th Business Day*</u>
August 25	September 1	September 3
26	2	7
27	3	8
30	7	9
31	8	10
September 1	9	13
2	10	14
3	13	15
6	Labor Day -	Labor Day -
7	14	16
8	15	17

+Members with NCC transactions should refer to NCC Important Notice which will be distributed shortly.

\*Date for determining the close out provisions under Section 4(c)(2) of Regulation T of the Federal Reserve Board.

Questions regarding this notice may be directed to the Uniform Practice Division of National Clearing Corporation\*\*, Two Broadway, 8th Floor, New York, New York 10004 (212)952-4018.

\*\* This notice, which applies to all NASD members, has been issued by National Clearing Corporation. The Board of Directors of NCC interprets and enforces the provisions of the NASD's Uniform Practice Code.