

Statement of  
Barbara M. Rothenberg, Member  
of the  
Securities Industry Conference on Arbitration  
Before the  
Securities and Exchange Commission  
Concerning the Proposals  
of the Conference  
For Handling Small Claims

December 8, 1977

Good afternoon, Mr. Chairman and Commissioners. I am Barbara Rothenberg, Counsel for the Philadelphia Stock Exchange. I have been asked by the self-regulatory organizations which have participated in the Securities Industry Conference on Arbitration (the "Conference") to speak on their behalf. These organizations are: the American, Cincinnati, Midwest, New York, Pacific and Philadelphia Stock Exchanges, Chicago Board Options Exchange, the Municipal Securities Rulemaking Board and the National Association of Securities Dealers.

We appreciate the Commission's willingness to defer action on its proposed nationwide system for handling customer disputes pending the outcome of the Conference's efforts in this area. We also appreciate the opportunity to appear before you today to discuss the results of our efforts to date, a proposal for uniform standards for arbitration of small claims by the investing public.

The self-regulatory organizations which have participated in the Conference believe that this uniform small claims proposal now before the Commission clarifies and simplifies the procedures presently used by the self-regulatory organizations having arbitration facilities. We also believe that our proposal is better suited to the needs of the small investor and, for that and other reasons, we respectfully request the Commission to act favorably on it.

It was considered advisable to begin with a proposal which is relatively modest in scope, acceptable to all the self-regulatory organizations and easy to implement. But the proposal also contains a certain flexibility and room for expansion as experience dictates. For

example, the Conference believes that the \$2,500 small claim jurisdictional maximum amount is a reasonable initial figure to be used in implementing these new procedures. However, this figure will be reviewed periodically as will other provisions of these rules when the participating self-regulatory organizations gain actual experience in cooperative administration of the rules. In particular, the self-regulatory organizations' desire to evaluate the operation of these procedures in cases where claimants choose to proceed either without counsel or by written submission.

The self-regulatory organization participants in the Conference believe that this small claims proposal is responsive to the Commission's express concern that there be a more uniform and effective, efficient and economical dispute resolution procedure available to individual investors. The uniformity achieved is, in our opinion, consistent with state and federal law and with the functioning of the various self-regulatory organization participants in the conference.

The major features of the proposal are as follows: the simplified procedure, which provides for a modest standardized fee, is expected not only to reduce delays but also to be fair to claimants proceeding without counsel or on the basis of a written submission. The participating self-regulatory organizations have agreed to coordinate their existing systems and resources in an effort to provide an integrated nationwide approach to small investor complaints. The arbitrators chosen would be knowledgeable in securities matters and preferably from the public sector. Provisions for publicizing the availability of the arbitration procedure to investors, as well as a brochure which would advise investors of the steps necessary to initiate arbitration of a dispute have been incorporated in the proposal. Finally, the proposal can be implemented through the existing self-regulatory structure and as part of the rules of the various self-regulatory organizations.

If the Commission views the Small Claims Proposal favorably, final approval of it by the Boards of the participating self-regulatory organizations is readily anticipated. The Boards or appropriate committees of the self-regulatory organization participants in the

Conference have already approved the proposal in principle and have indicated, subject to favorable review by the Commission, that they will take final action to adopt the proposal. It is for this reason that the self-regulatory organization participants expect that the proposal can be operational within a short time after the Commission approves rule changes filed individually by the various self-regulatory organizations.

We, therefore, urge you to permit us to go forward with implementation of this Small Claims Proposal.