SECURITY TRADERS ASSOCIATION

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February 28, 1989

Jonathan G. Katz, Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: File No. S7-23-88
Proposed Rule 144A

Dear Mr. Katz,

On behalf of the Security Traders Association we are writing in respect of the Commission's proposed Rule 144A. Our Association represents 7000 individual securities professionals in this country, Canada, the United Kingdom and Europe. This letter has been reviewed by our Board of Governors and represents their collective views. Our comments relate primarily to those aspects of the proposed Rule which would impact on secondary trading markets which may arise for securities transferred in reliance on the safe harbor provisions of the Rule.

Initially, we wish to commend the Commission in its efforts to meet the changes in the securities industry due to the internationalization of the capital markets while still conforming to the strictures of the half-century old federal securities laws.

We recognize proposed Rule 144A, in conjunction with proposed Regulation S, is an expression of the Commission's intent to maintain equality and competitiveness between our markets and those of the other industrialized nations. However, it appears to us that certain aspects of the Rule may have an adverse effect on our markets.

As the Rule is presently drafted it permits certain unlimited resales of securities originally issued without registration in reliance on the private offering exemption provided by Section 4(2) of the Securities Act of 1933. The only restriction is that such resales may only be made to qualified institutions - those with at least $100,000,000 of assets. We believe that the number of such potential purchasers may approximate 1000 or more.

The size of this defined group is what creates a problem, as it raises the probability that these qualified institutions will be in a position to commence buying and selling Rule 144A securities among themselves. Moreover, the size of the private placement market as described in the Commission's release will, in all likelihood, increase substantially following adoption of the Rule. In light of the size of the institutional investors group and the potential for an increase of the private placement market, we believe that it is reasonable to expect that an independent trading market for these securities will develop among the qualified institutional group.

There appears to be no provision to supervise this Rule 144A trading environment - either by the Commission or by a self-regulatory organization. Although, in this regard, we also note that the National Association of Securities Dealers and the American Stock Exchange have pending before the Commission proposals to establish supervised trading facilities for shares of unregistered, privately placed securities - PORTAL and SITUS.

Our primary concern is that this unregulated private trading market will eventually include securities which are also traded in the public market regulated under the 1934 Act. The differences between these two markets could have an impact on volume and pricing in both markets to the advantage of one over the other. We therefore suggest that, concurrently with the adoption of Rule 144A, the Commission give consideration to providing a regulatory frame work for the private market which will parallel that of the public marketplace, either directly, or indirectly through PORTAL and SITUS.

Two separate but sometimes equal trading markets raises another concern, perhaps in a more limited area. For example, Tier I securities can include securities of a non-reporting issuer. While the initial placement would be expected to have included a due diligence review of the issuer by the purchaser, there does not seem to be any protection for subsequent purchasers. Whether an issuer would agree to accept a continuing obligation to make material information available to a subsequent purchaser is, at best, extremely problematical.

Moreover, when the issuer is a non-reporting company, no subsequent purchaser would even have the benefit of an informed marketplace through operation of the "efficient market theory." Thus, where such securities may eventually pass over into the public trading markets, the lack of current information of the type available from a reporting company may work to the detriment of the issuer as well as the trading community which would be attempting blindly to make a market in that security. Parenthetically, even though a defined institution can purchase unregistered securities where its seller relies on a Rule 144A exemption, a subsequent purchaser may be exceeding its fiduciary obligations in acquiring such a security without a proper factual underpinning.

In view of the foregoing, we would support the adoption of the Rule provided that steps are taken to assure that there would be available, at least at the time when the two-and three-year restrictions on transfers expire, the same type of information concerning the issuer as is required by Rule 15c2-11 under the 1934 Act.

Because the prospective purchasers of Tier II and Tier III securities are of a lesser stature than those of Tier I securities, we further suggest that the Commission postpone action on those tiers until it has developed an experience with Tier I securities.

Separately from the foregoing, we endorse the Commission's proposal to amend Rule 144 to permit the tacking of holding periods. We believe that under the circumstances, this will be a beneficial move.

If you should require any further comments, we would be pleased to furnish them.

Respectfully,

Austin H. George
Chairman

John L. Watson III
President