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Annual Report

United States
Securities and Exchange Commission



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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

The Honorable Albert Gore, Jr.
Vice President of the United States
and President of the Senate
Washington, D.C. 20510

The Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515

Gentlemen:

I am pleased to send you the annual report of the Securities and Exchange Commission for fiscal year 1997. The activities and accomplishments identified in the annual report continue the Commission's long tradition of hard work and high achievement. I have highlighted some of the Commission's achievements below.

Enhancing Investor Protections

The Commission consistently brings cases against regulated entities and associated individuals, sending a strong message to the industry that misconduct relating to the sale of securities will not be tolerated. One very significant matter in 1997 resulted from an undercover Federal Bureau of Investigation operation involving a small brokerage firm. The FBI, working in close cooperation with the SEC and the National Association of Securities Dealers (NASD), conducted a sting operation in which 45 stock promoters, company officials, and current or former brokers were charged criminally for illegal kickbacks to brokers for sales of over-the-counter and Nasdaq stocks. Based on the same conduct underlying the criminal complaint, the SEC brought administrative proceedings against 29 of the stock promoters, company officials, brokers, and others.

Successful coordination between the Commission and criminal authorities also resulted in the termination of a microcap fraud involving the internet. In this matter, the chairman of a small company that was promoted over the internet secretly distributed millions of shares to

family members, to corporations he controlled, and as bribes to a network of touters, traders, brokers, and promoters. He then manipulated the market by, among other things, issuing false and misleading information about the company and its value as an investment. After the Commission suspended trading in the company's stock and brought an emergency enforcement action to enjoin the fraud and to freeze assets, the company's chairman pleaded guilty to stock fraud and agreed to surrender most of his assets to a receiver for distribution to the victims of his fraud. He is currently in prison. Four other individuals have also pleaded guilty to criminal charges for their role in this scheme. In Commission enforcement actions, participants in this scheme have been ordered to surrender a total of more than \$15 million in illegal profits.

The Commission also continued to focus on coordinating examinations with foreign, federal, and state regulators and self-regulatory organizations. During the year, Commission staff conducted examinations with the Hong Kong Securities and Futures Commission, the Ontario Securities Commission, and the U.S. Office of the Comptroller of the Currency, among others.

This past year, the Commission implemented new order handling rules. The new rules reinforce the SEC's 1996 settlement with the NASD and help protect investors in all markets. Since the rules were implemented, the markets have witnessed an historic decline between the "bid" and "asked" prices for securities. This means that investors are getting better prices, which was an important goal of the rules. The markets have become more fair for all investors, and in the long run, this increased fairness and openness will be to everyone's benefit.

We also approved new "cold calling" rules proposed by the NASD and the Municipal Securities Rulemaking Board and similar rules proposed by the American Stock Exchange and the New York Stock Exchange. The cold calling rules require that securities professionals call investors only between 8:00 a.m. and 9:00 p.m., say who's calling and why, put investors on a "do not call" list if they ask, and get written approval before taking money directly from investors' bank accounts. To inform investors about these rules, our Office of Investor Education and Assistance prepared an educational brochure, *Cold Calling Alert*.

The SEC's website transmitted its billionth page of text and data during the year. Since going on-line in September 1995, our website has received more than 95 million hits. Our website, featuring the agency's EDGAR system, has changed the way information on public companies and mutual funds is collected and disseminated.

Disclosure Developments

In the area of disclosure, the Commission proposed three major initiatives to improve the disclosure of information about mutual funds to investors, including: (1) permitting funds to use a summary document, or profile; (2) revising the mutual fund registration form; and (3) requiring a mutual fund, or other registered investment company, with a name suggesting that the fund focuses on a particular type of investment to invest at least 80 percent of its assets in the type of investment suggested by its name. While some funds have worked successfully to develop improvements in their prospectuses, these initiatives will be a catalyst for change throughout the fund industry.

We also redoubled our efforts to make sure that our rules and interpretations protect the millions of investors who today rely on investment advisers. During the year, we created a Task Force on Investment Adviser Regulation to implement the legislation enacted last year splitting regulatory jurisdiction over advisers between the Commission and the states, to review existing Commission regulations and develop proposals to modernize them, and to develop a means by which investors can easily obtain information about investment advisers.

In the accounting area, the Commission adopted rules requiring additional disclosures concerning derivatives and other financial instruments. The required disclosures are designed to help investors better assess the market risks of registrants involved with these instruments and better understand how those risks are managed.

Technological Challenges

One of the most significant areas the Commission has been focusing on is automation and the many technological challenges facing the industry. First and foremost among them is preparing for the year 2000. This past year, our efforts centered on encouraging swift and aggressive

action and actively monitoring progress among exchanges, clearing agencies, and the NASD. We also communicated with public companies, reminding them of their disclosure requirements and offering informal guidance about how to apply those requirements to the year 2000 problem. In addition, we worked with industry groups to educate the public on the issue.

During the year, we began a re-evaluation of the Commission's approach to regulating markets, particularly the Commission's oversight of alternative trading systems, registered exchanges, and foreign market activities in the United States. In connection with this initiative, the Commission issued a concept release to elicit public views on ways to regulate the U.S. securities markets in light of technological advances.

International Listings

We continued our efforts to widen the range of choices available to U.S. investors by promoting the internationalization of our markets. In 1990, 434 foreign companies were reporting in the U.S.; today, there are nearly 1,000 foreign companies from 51 countries. We will continue to do all we can to encourage more companies to list here.

* * *

The markets today are very different from the ones that existed just a few years ago. Change has always been the hallmark of our markets and the SEC has succeeded by recognizing that fact and responding to it. I have every confidence that the Commission will continue to perform its responsibilities with the professionalism and dedication that all of us have come to expect.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arthur Levitt', written in a cursive style.

Arthur Levitt
Chairman

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Commission Organization Chart

Commission Members and Principal Staff Officers

(As of November 5, 1997)

Commissioners*	Term Expires
Arthur Levitt, <i>Chairman**</i>	1998
Norman S. Johnson, <i>Commissioner</i>	1999
Isaac C. Hunt, Jr., <i>Commissioner</i>	2000
Laura S. Unger, <i>Commissioner</i>	2001
Paul R. Carey, <i>Commissioner</i>	2002

Principal Staff Officers

Jennifer Scardino, *Chief of Staff*

Brian J. Lane, *Director, Division of Corporation Finance*

Meredith B. Cross, *Deputy Director*

William E. Morley, *Senior Associate Director*

Robert A. Bayless, *Associate Director*

Albert S. Dandridge, III, *Associate Director*

Martin Dunn, *Associate Director*

Howard F. Morin, *Associate Director*

Mauri Osheroff, *Associate Director*

David A. Sirignano, *Associate Director*

*Steven M.H. Wallman resigned from the Commission on October 2, 1997.

**On April 3, 1998, Arthur Levitt was confirmed for a second term as Chairman of the Securities and Exchange Commission.

William R. McLucas, *Director, Division of Enforcement*

Colleen P. Mahoney, *Deputy Director*

Paul V. Gerlach, *Associate Director*

Thomas C. Newkirk, *Associate Director*

Vacant, *Associate Director*

Joan E. McKown, *Chief Counsel*

Christian J. Mixer, *Chief Litigation Counsel*

Stephen J. Crimmins, *Deputy Chief Litigation Counsel*

Walter Schuetze, *Chief Accountant*

James A. Clarkson, III, *Director of Regional Office Operations*

Barry Barbash, *Director, Division of Investment Management*

Vacant, *Associate Director*

Robert Plaze, *Associate Director*

Douglas Sheidt, *Associate Director*

Kenneth J. Berman, *Associate Director*

Richard Lindsey, *Director, Division of Market Regulation*

Robert L.D. Colby, *Deputy Director*

Larry E. Bergmann, *Associate Director*

Howard Kramer, *Associate Director*

Michael A. Macchiaroli, *Associate Director*

Catherine McGuire, *Associate Director*

Vacant, *Associate Director*

Richard Walker, *General Counsel, Office of General Counsel*

Paul Gonson, *Solicitor and Deputy General Counsel*

Karen Burgess, *Associate General Counsel*

Anne E. Chafer, *Associate General Counsel*

Richard M. Humes, *Associate General Counsel*

Diane Sanger, *Associate General Counsel*

Jacob H. Stillman, *Associate General Counsel*

Lori A. Richards, *Director, Office of Compliance Inspections and Examinations*

Mary Ann Gadziala, *Associate Director*

Gene Gohlke, *Associate Director*

C. Gladwyn Goins, *Associate Director*

Michael H. Sutton, *Chief Accountant, Office of the Chief Accountant*

Brenda Murray, *Chief Administrative Law Judge, Office of the Administrative Law Judges*

Erik Sirri, *Chief Economist, Office of Economic Analysis*

Vacant, *Director, Office of Equal Employment Opportunity*

James M. McConnell, *Executive Director, Office of the Executive Director*

Fernando L. Alegria, Jr., *Associate Executive Director*

Michael Bartell, *Associate Executive Director*

Wilson A. Butler, Jr., *Associate Executive Director*

Vacant, *Associate Executive Director*

Marisa Lago, *Director, Office of International Affairs*

Nancy M. Smith, *Director, Office of Investor Education and Assistance*

Kaye F. Williams, *Director, Office of Legislative Affairs*

Paul S. Maco, *Director, Office of Municipal Securities*

Christopher Ullman, *Director, Office of Public Affairs, Policy Evaluation and Research*

Jonathan G. Katz, *Secretary to the Commission*

Biographies of Commission Members

Chairman

Following his nomination by President Bill Clinton and his confirmation by the Senate, Arthur Levitt, Jr. was sworn in as the 25th Chairman of the Securities and Exchange Commission in July 1993.



Before joining the Commission, Mr. Levitt owned Roll Call, The Newspaper of Congress. Mr. Levitt served as the Chairman of the New York City Economic Development Corporation from 1989 to 1993 and the Chairman of the American Stock Exchange from 1978 to 1989. Prior to accepting the AMEX chairmanship, Mr. Levitt worked for 16 years on Wall Street. He graduated Phi Beta Kappa from Williams College in 1952 before serving for two years in the Air Force.

Upon his arrival at the SEC, Chairman Levitt quickly established four priorities: improving investor protections; reforming the municipal debt markets; raising the standards of practice for brokers; and, strengthening the international preeminence of the U.S. capital markets.

During Chairman Levitt's tenure, the SEC has established the Office of Investor Education and Assistance and created the SEC world wide website, one of the most popular on the internet, which allows the SEC to make all corporate filings available to the public free of charge.

The SEC has worked to sever ties between political campaign contributions and municipal underwriting business, a practice known as "pay-to-play," as well as improving the disclosure and transparency of the municipal bond market.

Chairman Levitt has also sought to raise the industry's sales practice standards and eliminate the conflicts of interest in how brokers are compensated.

The Commission, together with the industry, has developed the "Profile Prospectus" and other plain English guidelines for investment products in an effort to make disclosure documents easier to understand without compromising the value of the information provided to investors.



Commissioner

Following his appointment by President Clinton, and his confirmation by the Senate, Norman S. Johnson was sworn in as a United States Commissioner on February 13, 1996 in a ceremony presided over by the Chief Federal District Judge in Salt Lake City, Utah.

Prior to his nomination, Commissioner Johnson was a senior partner in the firm Van Cott, Bagley, Cornwall & McCarthy and had a long and illustrious legal career focusing on federal and state securities law. Commissioner Johnson commenced his career in the private practice after serving as a staff member of the SEC from 1965 through 1967. In addition, Commissioner Johnson served as an Assistant Attorney General in the Office of the Utah Attorney General from 1959 to 1965 and also served as a law clerk to the Chief Justice of the Utah Supreme Court.

During his career, Commissioner Johnson served as President of the Utah State Bar Association, was chosen as a State Delegate, House of Delegates, American Bar Association, and was named Chairman of The Governor's Advisory Board on Securities Matters, State of Utah. In addition, Commissioner Johnson served on the Governor's Task Force on Officer and Director Liability, State of Utah and numerous other committees and groups concerned with the application of federal and state securities laws.

Commissioner Johnson has received numerous honors and awards in recognition of the outstanding contributions he has made to the Securities Practice in the Rocky Mountain area. He has authored several articles published in legal periodicals, one of which is much cited, "The Dynamics of SEC Rule 2(e): A Crisis for the Bar."

Commissioner Johnson has involved himself in many community groups, including the Utah Supreme Court Committee on Gender and Justice. Married since 1956 to the former Carol Groshell, Commissioner Johnson has three grown daughters, Kelly, Catherine and Lisa, all whom reside in the state of Utah.

Commissioner

Isaac C. Hunt, Jr. was nominated to the Securities and Exchange Commission by President Bill Clinton in August 1995 and confirmed by the Senate on January 26, 1996. He was sworn in as a Commissioner on February 29, 1996.



Prior to being nominated to the Commission, Mr. Hunt was Dean and Professor of Law at the University of Akron School of Law, a position he held from 1987 to 1995. He taught securities law for seven of the eight years he served as Dean. Previously, he was Dean of the Antioch School of Law in Washington, D.C. where he also taught securities law. In addition, Mr. Hunt served during the Carter and Reagan administrations at the Department of the Army in the Office of the General Counsel as Principal Deputy General Counsel and as Acting General Counsel. As an associate at the law firm of Jones, Day, Reavis and Pogue, Mr. Hunt practiced in the fields of corporate and securities law, government procurement litigation, administrative law, and international trade. In addition, Mr. Hunt commenced his career at the SEC as a staff attorney from 1962 to 1967.

Mr. Hunt was born on August 1, 1937 in Danville, Virginia. He earned his B.A. from Fisk University in Nashville, Tennessee in 1957 and his LL.B. from the University of Virginia School of Law in 1962.



Commissioner

Paul R. Carey was nominated to the Securities and Exchange Commission by President Bill Clinton and confirmed by the Senate on October 21, 1997 for a term which expires June 5, 2002.

Prior to being nominated to the Commission, Mr. Carey served as Special Assistant to the President for Legislative Affairs at the White House where he had been since February of 1993. Mr. Carey was the liaison to the United States Senate for the President, handling banking, financial services, housing, securities, and other related issues. Prior to joining the Administration, Mr. Carey worked in the securities industry focusing on equity investments for institutional clients.

Mr. Carey received his B.A. in Economics from Colgate University.

Mr. Carey was born in Brooklyn, New York on October 18, 1962.

Commissioner

Laura S. Unger was sworn in on November 5, 1997 as a member of the Securities and Exchange Commission, for a term expiring June 2001. Before being appointed to the Commission, Ms. Unger served as Counsel to the United States Senate Committee on Banking, Housing and Urban Affairs where she advised the Chairman, Senator Alfonse M. D'Amato (R-NY). As counsel, Ms. Unger followed legislative issues relating to banking and securities.

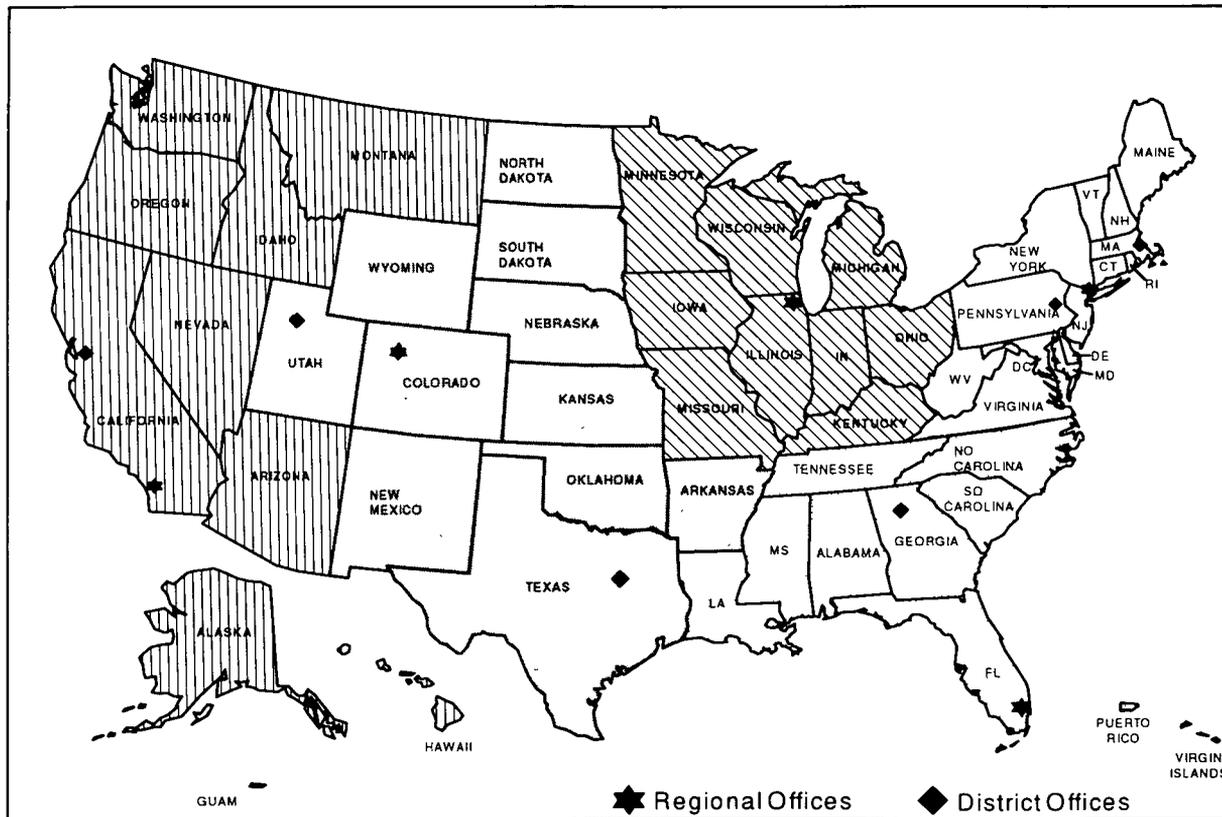


Prior to working for the Senate Banking Committee, Ms. Unger was a Congressional Fellow for Banking and Securities matters in the office

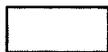
of Senator D'Amato. Before coming to work on Capitol Hill, Ms. Unger was an attorney in the Enforcement Division of the Securities and Exchange Commission in Washington, D.C.

Ms. Unger received a B.A. in Rhetoric from the University of California at Berkeley and a J.D. from New York Law School.

SEC REGIONAL AND DISTRICT OFFICES



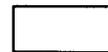
Pacific Region
San Francisco District



Central Region
Fort Worth District
Salt Lake District



Midwest Region



Northeast Region
Boston District
Philadelphia District



Southeast Region
Atlanta District

Central Regional Office

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Denver, Colorado 80202-2648
(303) 391-6800

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(415) 705-2500

Southeast Regional Office

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Miami, Florida 33131
(305) 536-4700

Atlanta District Office

Richard P. Wessel, District Administrator
3475 Lenox Road, N.W., Suite 1000
Atlanta, Georgia 30326-1232
(404) 842-7600

Enforcement

The Commission's enforcement program is designed to protect investors and foster confidence by preserving the integrity and efficiency of the markets.

Key 1997 Results

In 1997, the Commission's investigations and actions resulted in significant sanctions against securities law violators. The Commission obtained court orders requiring defendants to disgorge illegal profits of approximately \$214 million. Civil penalties authorized by the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 (Remedies Act), the Insider Trading Sanctions Act of 1984 (ITSA), and the Insider Trading and Securities Fraud Enforcement Act of 1988 (ITSFEA) totaled more than \$49 million.

Enforcement Actions Initiated

	1993	1994	1995	1996	1997
Civil Injunctive Actions	172	196	171	180	189
Administrative Proceedings	229	268	291	239	285
Contempt Proceedings	15	33	23	32	14
Reports of Investigation	<u>0</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>1</u>
Total	416	497	486	453	489

In Commission-related cases, criminal authorities obtained 93 indictments or informations and 98 convictions during 1997. The Commission granted access to its files to domestic and foreign prosecutorial authorities in 197 instances.

Enforcement Authority

The Commission has broad authority to investigate possible violations of the federal securities laws. In its informal investigations, the staff requests information on a voluntary basis. In its formal investigations, the staff can use the Commission's subpoena power to compel witnesses to testify or to produce books, records, and other evidence.

The federal court injunction, an order that prohibits future violations of the law, has historically been one of the Commission's principal enforcement tools. Conduct that violates the injunction may result in fines or imprisonment. In actions seeking injunctions, the Commission also may request temporary restraining orders and preliminary injunctions as emergency relief to address ongoing violations. In its emergency actions, the Commission will often request freeze orders to protect investor funds and assets. As additional sanctions in civil actions, the Commission frequently seeks orders requiring disgorgement of illegal profits and the payment of civil penalties. The Remedies Act authorized the courts to impose civil penalties for any violation of the federal securities laws (except insider trading violations for which penalties are available under ITSA and ITSFEA). The Remedies Act also affirmed the equitable authority of the courts to bar or suspend individuals from serving as corporate officers or directors.

The Commission may institute several types of administrative proceedings. These include proceedings against regulated entities (such as broker-dealer firms or investment advisers) in which violators may be censured or limited in their activities, or in which their registrations may be suspended or revoked. The Commission may impose similar sanctions on persons employed by regulated firms, and may bar respondents from further participation in penny stock offerings. In administrative proceedings against regulated firms and their employees, the Remedies Act authorizes the Commission to order the payment of penalties and disgorgement.

The Commission also may issue cease and desist orders in administrative proceedings against any person violating the federal securities laws. The Commission may require disgorgement of illegal profits in its cease and desist proceedings. In emergency situations, the

Commission may issue temporary cease and desist orders against regulated firms or their employees.

The Securities Act of 1933 (Securities Act) permits the Commission to suspend the effectiveness of registration statements containing false or misleading statements, and to order compliance with the law. Rule 102(e) of the Commission's Rules of Practice provides for administrative proceedings against professionals, including accountants and attorneys, in which they may be barred or suspended from appearing or practicing before the Commission based on violations of the federal securities laws or other evidence of unfitness.

The Commission is authorized to refer matters to other federal, state, or local authorities, or self-regulatory organizations (SROs). Any violation of the federal securities laws can be prosecuted as a criminal violation, and the staff often provides substantial assistance to the Department of Justice in federal criminal actions.

Enforcement Activities

Most of the Commission's enforcement actions were resolved by settlement with the defendants or respondents, who generally consented to the entry of judicial or administrative orders without admitting or denying the factual allegations made against them. Table 2 contains a list of all enforcement actions instituted in 1997. The following summaries are provided as a sampling of the year's significant actions.

Offering Cases

Securities offering cases involve the offer and sale of securities in violation of the registration provisions of the Securities Act.

Internet Cases

The internet and the various commercial online services have become popular sources of information about many areas of public interest, including securities. In some instances, however, communications over the internet have been used to solicit the purchase of unregistered securities or to further securities frauds.

Successful coordination between the Commission and criminal authorities resulted in the termination of a massive manipulation of the stock of Systems of Excellence, Inc. (SOE), a manufacturer and distributor of video teleconferencing equipment. Following an expedited investigation, the Commission filed an action against Charles O. Huttoe, SOE's former chief executive officer, the publisher of a daily stock newsletter that touted SOE over the internet, and eleven other individuals and entities (*SEC v. Charles O. Huttoe*¹). The Commission alleged, among other things, that Huttoe secretly distributed millions of SOE shares to his family members and corporations under his control, manipulated the market by issuing false favorable information, and then sold his shares into the inflated market. Huttoe artificially inflated the price of SOE shares through false and misleading press releases announcing nonexistent multimillion dollar sales of SOE products, an acquisition that had not occurred, and revenue projections for SOE that were without basis. The Commission alleged that more than \$10 million was obtained from the dumping of SOE shares when the stock reached its high in June 1996. Huttoe consented to the entry of an injunction, and the Commission obtained relief as to a number of relief defendants in this action. Related criminal actions were brought against Huttoe, the newsletter publisher, and a former SOE auditor.

The Commission filed a complaint in *SEC v. Merle S. Finkel*,² alleging that Finkel, a certified public accountant, issued materially false or inaccurate audit reports on the financial statements of SOE and two other publicly-traded companies, Twenty First Century Health, Inc., and Combined Companies International Corp. The complaint alleged that, with respect to each of the three issuers, Finkel's audit reports falsely stated that he had conducted audits in accordance with generally accepted auditing standards, and falsely represented that the financial statements were fairly presented in conformity with generally accepted accounting principles. Finkel consented to the entry of an injunction and a Commission order denying him the privilege of appearing or practicing before the Commission as an accountant.

The Commission filed a complaint against George Chelekis and two companies that he controlled, KGC, Inc., and Hot Stocks Review, Inc. (*SEC v. George Chelekis, et al.*³). Chelekis published and distributed

internet and print versions of investment newsletters known as the Hot Stocks publications. Chelekis failed to disclose that he and the other defendants received at least \$1.1 million from more than 150 issuers, and 275,500 shares of stock from ten issuers, as payment for recommending those issuers' securities. The defendants consented to the entry of an injunction and orders requiring them to pay a total of \$162,727, representing \$75,050 in disgorgement, \$12,627 in prejudgment interest, and a \$75,050 civil penalty.

Other Offering Violations

The Commission filed an action against First Interregional Advisors Corporation, a company engaged in the financing and distribution of equipment lease contracts, a related broker-dealer firm, and the individual who acted as president of both companies (*SEC v. First Interregional Advisors Corporation, et al.*⁴). The complaint alleged that First Interregional promised investors that they were purchasing particular leases or groups of leases with specific governmental units, from which they would receive an income stream over the life of the lease. In fact, most of the investors were sold leases that had already been sold to others. Interregional did not have sufficient funds to meet obligations to investors. The Commission obtained a temporary restraining order and the appointment of a receiver in these proceedings, which were pending at the end of the year.

The Commission alleged that Global Financial Traders, Ltd., an investment newsletter publisher, and individuals and companies related to Global, engaged in a manipulation and concerted telemarketing campaign to sell unregistered stock of American Image Motor Company (*SEC v. Global Financial Traders, Ltd.*⁵). The defendants sold large amounts of the stock from their own accounts. The Commission obtained a temporary restraining order, an asset freeze, and a preliminary injunction against the firm and its principals.

Municipal Securities Cases

Individual investors have become important players in the municipal securities markets, through direct purchases of municipal bonds and through investments in mutual funds that hold these securities. At the same time, the overall size of the market has grown substantially. To

protect investors in municipal securities, the Commission has focused increased attention on potentially illegal activities in this market.

In cease and desist proceedings against Syracuse, New York, and two of its financial officers, the Commission alleged that the city misrepresented its financial condition and results of operations when offering and selling municipal securities issued in December 1995 and February 1996 (*In the Matter of The City of Syracuse, New York, et al.*⁶). The official statements used to sell the securities showed a surplus of \$400,000 in the city's general and debt service funds, when in fact the city had a deficit of \$9.4 million. As a result of that and other misstatements, the city overstated its 1995 ending fund balance by \$24.2 million. The city also described summary financial information as audited, without disclosing that some of the information was derived from financial statements on which auditors had issued reports containing qualified opinions. Syracuse and the two individual respondents consented to the entry of cease and desist orders.

The Commission alleged failure to reasonably supervise by Smith Barney, Inc., in connection with a bond offering by Dade County, Florida in 1993 (*In the Matter of Smith Barney, Inc.*⁷). The county had originally planned to issue fixed-rate bonds. Smith Barney proposed an alternative financing structure under which the county would issue variable-rate bonds. The county would then exchange its obligation to make variable-rate payments for another issuer's obligation to make fixed-rate payments. When the alternative financing structure was first proposed, the Smith Barney employee's calculations showed that the county would realize substantial savings by adopting its alternative. However, a subsequent change in interest rates caused the potential savings to the county to fall below the threshold it had set for use of the alternative structure. The Smith Barney employee responsible for structuring the transaction then manipulated variables in the calculations to create the false impression that the alternative would generate savings in excess of the minimum required. The use of faulty and inaccurate assumptions in the calculations resulted in the overstatement of hypothetical savings by at least \$5 million. In reliance on these calculations, the county decided to adopt the alternative financing structure. Smith Barney consented to the entry of an order in which the Commission found that it had failed to supervise the employee responsible for the transaction. The order censured the firm and required it to pay disgorgement of \$1,584,671, plus prejudgment interest of \$452,365,

to Dade County. The firm also was required to pay a civil penalty of \$250,000.

The Commission charged CS First Boston Corporation and two of its former investment bankers with fraud in the offer and sale of \$110 million in bonds issued by Orange County, California (*SEC v. C.S. First Boston Corporation, et al.*⁸). The complaint alleged that the defendants misled investors about the risks of the county's investment strategy and losses. Information about the county's investment strategy, risks, and investment losses was material to investors in the \$110 million bond offering because the county guaranteed the bonds' liquidity. Investors had the right to liquidate their investment upon seven days' notice, and, if the bonds could not be resold in that time, the county agreed to repurchase them. This case was pending at the end of the year.

Financial Disclosure Cases

Actions involving false financial statements, or false and misleading disclosures about matters affecting an issuer's financial condition, tend to be complex, and generally demand a greater commitment of resources than other types of cases. Effective prosecution in this area is essential to preserving the integrity of the full disclosure system. The Commission brought 90 cases containing significant allegations of financial disclosure violations against issuers, regulated entities, or their employees. Many of these cases included alleged violations of the books and records and internal accounting control provisions of the Foreign Corrupt Practices Act.

The Commission filed an action charging Fabri-Centers of America, Inc., a fabric and crafts retailer, Robert L. Norton, and Joseph E. Williams with materially overstating Fabri-Centers' earnings and profitability prior to a \$74.75 million convertible debt offering in March 1992 and in the next three fiscal quarters (*SEC v. Fabri-Centers of America, Inc., et al.*⁹). The overstatements allowed Fabri-Centers to sell its convertible debt at better prices and on more favorable terms than if accurate information had been provided. Fabri-Centers consented to entry of an injunction and an order requiring the payment of \$3.28 million in disgorgement.

In administrative proceedings, the Commission alleged that W.R. Grace & Co. failed to disclose fully the substantial retirement benefits it

had agreed to provide J. Peter Grace, Jr. on his retirement as chief executive officer (*In the Matter of W.R. Grace & Co.*¹⁰). W.R. Grace also failed to disclose a related-party transaction with Grace's son in its 1993 Form 10-K and its 1994 proxy statement. The undisclosed transaction involved the acquisition, by a group headed by Grace's son, of Grace Hotel Services Corporation, a W.R. Grace subsidiary. W.R. Grace consented to the entry of a cease and desist order. The company and three of its former officers and directors also consented to the issuance of a Report of Investigation under section 21(a) of the Securities Exchange Act of 1934 (*In the Matter of W.R. Grace & Co.*¹¹). The 21(a) Report emphasized the affirmative responsibilities of corporate officers and directors to ensure that shareholders receive accurate and complete disclosure of information required in proxy solicitations and periodic reports.

The Commission filed an action against Ferrofluidics Corporation and five individuals alleging false and misleading statements about a sham private placement of securities, the company's equity investments, and its sales of products (*SEC v. Ferrofluidics Corporation, et al.*¹²). The defendants also disseminated favorable, but baseless, projections of the company's profitability and business prospects. The company was in fact experiencing significant losses, as well as difficulties in developing and manufacturing its products. The complaint further alleged that two of the defendants engaged in insider trading by selling Ferrofluidics stock while in possession of material, non-public information about the company's true financial condition. This action was pending at the end of the year. The Commission also instituted five related administrative proceedings against a total of eleven individuals and a broker-dealer firm.

In a civil action against Montedison, S.p.A., an Italian company, the Commission alleged that the company concealed bribes paid to politicians in Italy and to other persons (*SEC v. Montedison, S.p.A.*¹³). By misstating its financial condition and results of operation, Montedison was able to conceal losses of \$398 million and to materially overstate its assets for fiscal years 1988 through 1991. These proceedings were pending at the end of the year.

The Commission's complaint against Triton Energy Corporation and some of its former officers was based on numerous improper payments that were intended to influence Indonesian government employees in violation of the Foreign Corrupt Practices Act (*SEC v. Triton Energy*

*Corporation, et al.*¹⁴). The payments were falsely entered on corporate books as routine business expenditures. The complaint alleged that Triton Energy failed to maintain an adequate system of internal accounting controls to detect and prevent improper payments to government officials and to provide reasonable assurance that transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles. Triton Energy consented to the entry of an injunction and an order requiring the payment of a \$300,000 civil penalty. In addition, one of Triton's former officers consented to an injunction and an order requiring the payment of a \$50,000 civil penalty. The Commission instituted related administrative proceedings against former Triton employees David Gore, Robert Puetz, William McClure, and Robert P. Murphy for their conduct in connection with the improper payments and misbookings. The respondents consented to the entry of cease and desist orders.

Insider Trading

Insider trading occurs when a person in possession of material non-public information engages in securities transactions or communicates the information to others who trade. The ITSA authorizes the Commission to seek a civil penalty, payable to the United States Treasury, of up to three times the profit gained or loss avoided by persons who unlawfully trade in securities while in possession of material non-public information or who unlawfully communicate material non-public information to others who trade. Civil penalties also can be imposed upon persons who control insider traders. In injunctive actions against insider traders, the Commission often seeks disgorgement of illegal profits in addition to civil penalties. During 1997, the Commission brought 57 cases alleging insider trading violations.

The complaint filed against Roy Handojo alleged insider trading in the stock of five companies involved in four separate merger negotiations (*SEC v. Roy Handojo*¹⁵). Handojo obtained material non-public information while employed as an analyst by J.P. Morgan's Financial Institutions Group, which participated in the negotiations as adviser. His trading resulted in profits of more than \$477,000. The Commission obtained an order freezing assets in the defendant's brokerage and bank accounts in these proceedings, which were pending at the end of the year.

The Commission filed an action against Frederick Liu, a Hong Kong resident, alleging that he obtained material non-public information about the proposed acquisition of Renaissance Hotel Group by Doubletree Corporation (*SEC v. Frederick Liu*¹⁶). The 1.4 million shares of Renaissance common stock that Liu purchased for an average price of \$15.66 increased in total value by \$11,270,000 after the public announcement of the merger. Liu canceled the trades and abandoned the trading profits when he learned of the Commission's emergency enforcement action. Liu consented to the entry of an injunction and an order requiring him to pay a civil penalty of \$2 million.

In an emergency action, the Commission filed a complaint against an unknown trader (since identified as Abdul Ismail) and Ong Congqin Bobby (*SEC v. One Unknown Purchaser of the Call Options of APL Limited, et al.*¹⁷). The complaint was subsequently amended to add an additional defendant, Lum Kwan Sung, a resident of Singapore. The Commission alleged that the defendants engaged in insider trading prior to the public announcement that APL Limited would be acquired by Singapore-based Neptune Orient Lines, Ltd. Ismail purchased call options anonymously through an account at a Swiss bank, while Ong purchased calls through a Singapore subsidiary of a United States brokerage firm. Lum purchased APL common stock. The court granted the Commission's request for a temporary asset freeze and orders requiring the defendants to identify themselves, allowing expedited discovery, and granting other ancillary relief. Ismail has been dismissed from this action, which was pending at the end of the year.

In an emergency action filed against Emanuel Pinez, the former chief executive officer of Centennial Technologies, Inc., the Commission alleged insider trading by Pinez while he was in possession of information regarding Centennial's true financial condition (*SEC v. Emanuel Pinez*¹⁸). Pinez caused Centennial to record fictitious sales in which he secretly paid for products with his own funds. Pinez also allegedly altered inventory tags, which resulted in an overstatement of inventory. Pinez's apparent motive for these transactions was to ensure that Centennial's reported results met analysts' expectations. Pinez purchased put options and sold call options on Centennial stock, while aware that Centennial's financial condition was substantially worse than reported. The court granted the Commission's request for a temporary restraining order and for orders

freezing assets, requiring an accounting, and providing other relief. Pinez was indicted in related criminal proceedings.

Regulated Entities

The Commission exercises oversight of SROs in the securities business. The Commission instituted administrative and cease and desist proceedings against Stock Clearing Corporation of Philadelphia (SCCP) and Philadelphia Depository Trust Company (Philadep) (*In the Matter of Stock Clearing Corp. of Philadelphia and Philadelphia Depository Trust Co.*¹⁹). The Commission's order found that SCCP and Philadep failed to comply with their own rules and procedures, failed to file necessary proposed rule changes with the Commission and, in the case of SCCP, violated margin lending requirements of Regulation T. Some of SCCP's and Philadep's violations were the result of inadequate internal and risk management controls. For example, specific funds collected from SCCP and Philadep clearing members and maintained as collateral in the event of a financial emergency, as required by SCCP's and Philadep's rules, were not safeguarded against improper uses. As a result, these funds were commingled with general operating funds and were available and used, almost without limitation, to meet operating expenses and cover cash shortfalls at the Philadelphia Stock Exchange. Other violations resulted when SCCP and Philadep utilized procedures and methodologies that were not approved by the Commission and conducted operations in a manner contrary to their own rules and regulations. SCCP and Philadep consented to the entry of a cease and desist order requiring them to comply with detailed undertakings. The Commission instituted related proceedings against Timothy J. Guiheen, the former president and chief executive officer of the SCCP and Philadep; Guiheen consented to the entry of a cease and desist order.²⁰ The Commission also instituted cease and desist proceedings against William N. Briggs, who was formerly employed by the SCCP and Philadep and is currently chief financial officer of the Philadelphia Stock Exchange.²¹ The proceedings against Briggs were pending at the end of the year.

The Commission consistently brings high profile cases against the entities and individuals it regulates, sending a strong message to the industry that misconduct relating to the sale of securities will not be tolerated. Moreover, the Commission is placing greater emphasis on firms and their managers, increasing the number of cases alleging failure to supervise, and imposing stiffer sanctions.

A number of proceedings have involved schemes in which brokers sold securities in exchange for undisclosed payments from issuers or promoters. In October 1996, as a result of an undercover investigation by the Federal Bureau of Investigation (FBI), working in cooperation with the Commission, NASD Regulation, and the U.S. Attorney's Office for the Southern District of New York, 45 individuals were arrested and charged variously with conspiracy, securities fraud, and criminal contempt following extensive investigations into illegal payments made to securities brokers in connection with sales of over-the-counter and Nasdaq stocks to customers.²² The Commission brought administrative proceedings against 29 of the stock promoters, company officials, brokers, and others who were arrested. The Commission's proceedings charged the individuals with securities fraud based on the same conduct underlying the criminal complaints and sought cease and desist orders, bars on promoting penny stocks, and disgorgement. According to the criminal complaints, undercover FBI agents operating a small brokerage firm in Manhattan posed as brokers who managed millions of dollars and were willing to accept payoffs to sell over-the-counter bulletin board and Nasdaq stocks to customers. The payments were generally made by and through stock promoters who, working with officers of the companies whose stocks were being touted, paid the brokers as much as 40 percent of the value of the stock being sold to the brokers' customers.

The Commission instituted administrative proceedings against 11 respondents alleged to have participated in a scheme to sell securities to brokerage customers in return for undisclosed compensation (*In the Matter of John L. Banach, et al.*²³). The respondents included John L. Banach, the former president of Enrotek Corporation. Banach and others made payments to registered representatives at two brokerage firms in exchange for purchases of Enrotek stock by the brokerages' customers. These proceedings were pending at the end of the year.

The Commission also instituted administrative proceedings against four individuals, alleging that they participated in a scheme to sell common stock of Teletek, Inc. in return for payments that were not disclosed to customers (*In the Matter of Steven Ira Wertman, et al.*²⁴). Steven Ira Wertman, a stock promoter, arranged for secret payments to Robert Bruce Orkin, the owner and principal officer of a now defunct brokerage firm. Wertman and Orkin also allegedly manipulated the market in Teletek stock. These proceedings were pending at the end of the year. In related proceedings, the Commission alleged that Thomas Cloutier, a former registered representative with a broker-dealer firm, sold Teletek stock in exchange for undisclosed compensation (*In the Matter of Thomas John Cloutier*²⁵). These proceedings also were pending at the end of the year.

Broker-Dealers

A significant number of Commission enforcement actions are filed each year against broker-dealer firms and persons associated with them. These actions focus on fraudulent sales practices as well as on violations of the books and records, customer protection, and net capital provisions of the federal securities laws. The Commission can also impose sanctions upon firms and their senior management for failure reasonably to supervise employees to prevent violative conduct.

The order instituting proceedings against H. Beck, Inc., a registered broker-dealer, and its chief executive officer, Gary S. Hurvitz, alleged that an H. Beck registered representative engaged in a scheme to defraud customers through the offer and sale of unregistered partnership interests (*In the Matter of H. Beck, Inc., et al.*²⁶). The registered representative churned the account of an H. Beck customer and attempted to cover up the scheme by sending misleading statements and updates to investors. The Commission charged that H. Beck and Hurvitz failed reasonably to supervise the registered representative with a view toward preventing his violations. The respondents failed to implement a system reasonably designed to prevent and detect his violations, failed adequately to monitor his day-to-day activities, and failed to take adequate action in response to red flags regarding his conduct. These proceedings were pending at the end of the year.

The Commission filed an action against Sterling Foster & Co., Inc., a New York broker-dealer, and four of its employees, Adam Lieberman, Craig Kellerman, Frank Monroig, and Dennis Rueb, alleging that they had obtained at least \$75 million in connection with the manipulation of securities of six issuers (*SEC v. Sterling Foster & Co., Inc., et al.*²⁷). Sterling Foster, Lieberman, and Kellerman manipulated the price of securities of six public companies and sold these securities at artificially inflated prices to investors. Lieberman and Monroig trained Sterling Foster representatives to induce customers to purchase these securities through “boiler-room” sales practices. Sterling Foster, Lieberman, and Kellerman charged customers undisclosed excessive markups of at least \$75 million on purchases of these securities and prevented the customers from selling their positions. Sterling Foster, Lieberman, Kellerman, and Monroig consented to the entry of a temporary restraining order that appointed a special compliance monitor for Sterling Foster. This action was pending at the end of the year.

The Commission instituted administrative proceedings against Royal Alliance Associates, Inc., a registered broker-dealer (*In the Matter of Royal Alliance Associates, Inc.*²⁸). The managing executive of Royal Alliance’s Greensboro office transferred funds among approximately 50 of his customers through various deceptive means, including the use of separate entities. When the scheme ended, 14 of the managing executive’s customers had suffered losses of about \$600,000. The managing executive of Royal Alliance’s Cocoa Beach office misappropriated approximately \$400,000 from ten of his customers. The Commission alleged that Royal Alliance lacked adequate supervisory and compliance procedures and failed adequately to implement the procedures that were in place with respect to its Greensboro and Cocoa Beach offices. Royal Alliance consented to the entry of an order requiring payment of a civil penalty of \$50,000 and retention of an independent consultant to review the firm’s policies and procedures.

The Commission instituted public administrative proceedings against GKN Securities Corporation, a registered broker-dealer, and Robert H. Gladstone, GKN’s executive vice president, alleging that they had failed reasonably to supervise a number of GKN registered representatives with a view to preventing securities law violations (*In the Matter of GKN Securities Corp., et al.*²⁹). GKN grew rapidly between 1990 through 1992. The number of customer complaints received by the firm rose substantially

during this period and included multiple complaints against particular registered representatives supervised by Gladstone. Customer complaints included unauthorized trading and failure properly to execute sale orders. Gladstone did not regularly review the complaints or the conduct of the registered representatives who were the subjects of the complaints. GKN and Gladstone failed to establish adequate supervisory procedures to monitor the sales practice activities of the registered representatives and failed to put in place procedures to track and adequately respond to customer complaints. GKN consented to pay a \$100,000 civil penalty, to implement and maintain policies and procedures designed to reasonably detect and prevent violations and to retain an independent consultant to review their policies and procedures. Gladstone consented to a 30-day suspension from association and an 11-month supervisory suspension.

Investment Advisers and Investment Companies

The Commission brought a number of significant cases in 1997 involving investment advisers and investment companies. In this area, the Commission expressed concern over the use of “soft dollars.” A soft dollar arrangement involves the use of commission dollars generated by trades executed in client accounts to pay for research, brokerage, or other products, services, or expenses. This creates a potential conflict of interest for the adviser that must be disclosed to clients for their consideration when hiring an adviser.

A recent case dealing with the failure to disclose a soft dollar arrangement to clients involved Oakwood Counselors, Inc., a registered investment adviser, and its president and sole owner, Paul J. Sherman (*In the Matter of Oakwood Counselors, Inc., et al.*³⁰). The Commission alleged that Oakwood entered into a soft dollar arrangement with a broker-dealer and, from January 1989 to June 1995, used soft dollar credits generated by the arrangement to pay for most of its own expenses, including phone bills, office equipment, client solicitation fees, and client accounting and marketing expenses. This arrangement was not disclosed to Oakwood’s clients. Oakwood consented to the entry of an order requiring it to pay disgorgement of \$419,763 and a civil penalty of \$25,000.

The Commission instituted administrative and cease and desist proceedings against Parnassus Investments, a registered investment adviser

that acted as adviser to the Parnassus Fund, a mutual fund based in San Francisco, and to individuals (*In the Matter of Parnassus Investments, et al.*³¹). The Commission alleged that the respondents overstated the fund's net asset value for over two years by failing properly to value its holding of Margaux, Inc., a thinly traded security. The overstated net asset value caused redeeming shareholders to receive more than they were entitled to, thereby diluting the holdings of remaining shareholders, and caused purchasing shareholders to pay more for fund shares than their actual value. This violation also had the effect of increasing Parnassus Investment's compensation as adviser to the fund. The Commission alleged that Parnassus improperly used soft dollar credits from the fund's broker to benefit Parnassus instead of the fund and its shareholders. Parnassus failed to disclose the improper use of soft dollar credits.

The Commission alleged a scheme by Devon Capital Management, Inc., a registered investment adviser, that resulted in the loss of millions of dollars of municipal bond proceeds invested by Pennsylvania school districts (*SEC v. John Gardner Black, et al.*³²). Devon represented to its school district advisory clients that their funds were fully protected by a pool of securities equal to their principal investment and that they would receive a specified rate of return over a fixed period. In fact, the investment program resulted in a combined loss of approximately \$71 million for the school districts. Devon concealed the loss by misrepresenting the value of assets held as collateral. In addition, Devon continued to accept new clients even though their investments were immediately diluted. Devon, an affiliated company, and John Black, who controlled both entities, used at least \$2 million of school district funds for personal and business expenses. The defendants consented to the entry of injunctions and an order requiring further discovery as to disgorgement and civil penalties.

In administrative proceedings against Ronald V. Speaker and Janus Capital Corporation, the Commission alleged that Speaker, the portfolio manager for a registered mutual fund, breached his fiduciary duty by taking an investment opportunity without disclosing the opportunity to the fund (*In the Matter of Ronald V. Speaker, et al.*³³). An institutional salesman for a broker-dealer offered Speaker the opportunity to purchase securities in Time Warner, an offer that Speaker rejected on behalf of the fund. Later that day, he learned of a bid from another broker-dealer for the debentures at a price higher than the price he had been offered. Without

disclosing his conflict of interest to the fund, and without obtaining the fund's prior consent, Speaker personally purchased \$10 million of the debentures in two transactions and sold the debentures that same day for a total profit of \$16,000. The compliance department at Janus became aware of the trade, but took no action after reviewing the transaction. Speaker consented to the entry of a cease and desist order and orders requiring him to pay disgorgement of \$16,000, plus prejudgment interest of \$5,199, and to pay a civil penalty of \$16,000. He also consented to a suspension from association for 90 days, and to limitations on his personal securities transactions for a 3-year period. Janus consented to the entry of an order by which it was censured and required to pay a civil penalty of \$25,000.

The Commission instituted administrative proceedings against Alliance Capital Management, L.P., a registered investment adviser, alleging that Alliance failed reasonably to supervise Roger W. Honour (*In the Matter of Alliance Capital Management, L.P.*³⁴). Honour was the portfolio manager for two technology funds with a total of \$220 million under management. On 24 occasions, he personally traded in securities being bought or sold by the funds and other Alliance clients. On several occasions, Honour was able to obtain better prices for himself than for Alliance clients. While Honour was associated with Alliance, the adviser lacked adequate procedures to detect and prevent either his personal trades made on the same day as client trades or his trading in breach of his fiduciary duties that did not occur on the same day as a client trade. Alliance consented to the entry of an order that imposed a censure and required the firm to pay a civil penalty of \$100,000.

The Commission instituted administrative proceedings against Fundamental Portfolio Advisors, Inc., a registered investment adviser; Vincent J. Malanga, Fundamental's president; Lance M. Bronfman, the former portfolio manager of the Fundamental U.S. Government Strategic Income Fund; and Fundamental Service Corporation, a broker-dealer affiliated with Fundamental (*In the Matter of Fundamental Portfolio Advisors, Inc., et al.*³⁵). The Income Fund failed to disclose risks that stemmed largely from its substantial investment in inverse floating collateralized mortgage obligations (inverse floaters). The fund was marketed as a relatively safe and conservative investment with a limited duration of three years or less. Because of the fund's investment in inverse floaters, it actually had a heightened sensitivity to changes in interest rates.

The fund's duration also was much higher than three years. These proceedings were pending at the end of the year.

The Commission's administrative proceedings against Mitchell Hutchins Asset Management, Inc. arose from the adviser's management of the PaineWebber Short-Term U.S. Government Income Fund (*In the Matter of Mitchell Hutchins Asset Management Inc.*³⁶). The adviser marketed the fund as a higher-yield and somewhat higher-risk alternative to money market funds and certificates of deposit. The fund told investors that it did not intend to invest in certain classes of interest only and principal only stripped mortgage-backed securities. Nonetheless, the fund began investing in such securities in the fall of 1993. The adviser failed to review the securities purchased by the fund's portfolio manager or to ensure that the fund's investments were consistent with the prospectus and other public disclosures. When interest rates increased in 1994, the fund incurred significant losses. Mitchell Hutchins consented to the entry of a cease and desist order that required the firm to pay a civil penalty of \$500,000.

Sources for Further Inquiry

The agency publishes the SEC Docket, which includes announcements regarding enforcement actions. SEC litigation releases describe civil injunctive actions and also report certain criminal proceedings involving securities-related violations. These releases typically report the identity of the defendants, the nature of the alleged violative conduct, and the disposition or status of the case, as well as other information. The SEC Docket also contains Commission orders instituting administrative proceedings, making findings, and imposing sanctions in those proceedings; initial decisions; and significant procedural rulings issued by administrative law judges.

Recent litigation releases, orders in administrative proceedings, and other information of interest to investors are posted on the internet at the SEC's World Wide Website (<http://www.sec.gov>). Persons who wish to report possible instances of fraud on the internet--or any other violations of the federal securities laws--may now send messages to the Commission through its internet site. The Commission's Enforcement Complaint Center may be reached through the Enforcement web page; visitors have

the option of using either an internet form or sending an electronic mail message through the site. In addition, electronic mail may be sent directly to the Division of Enforcement at enforcement@sec.gov.

International Affairs

The SEC works in the international arena to promote cooperation and assistance and to encourage the adoption of high regulatory standards. The Office of International Affairs develops and implements the SEC's international enforcement and regulatory initiatives. To further these goals, the office negotiates and oversees the implementation of information-sharing arrangements for enforcement and regulatory matters, conducts a technical assistance program for countries with emerging securities markets, and ensures that the SEC's interests are furthered through its participation in international organizations.

Key 1997 Results

In 1997, the office made 240 requests to foreign governments for enforcement assistance on behalf of the SEC and responded to 363 requests for enforcement assistance from foreign governments. The international affairs staff responded to 160 foreign requests for technical assistance and provided training for 341 foreign capital markets officials from 91 countries.

The SEC signed with the Bank of England the agency's first cross-border, cross-sectoral agreement to assist in regulatory cooperation. In addition, the SEC signed memoranda of understanding to assist in law enforcement with authorities in Germany and Portugal.

The SEC's leadership role in the International Organization of Securities Commissions (IOSCO) and the Council of Securities Regulators of the Americas (COSRA) continued to advance international regulatory and market oversight issues. IOSCO published a paper on internet enforcement and surveillance and continues to examine the impact of the internet on securities regulation. IOSCO also adopted a comprehensive resolution on recordkeeping and collection of information that will facilitate enforcement cooperation. Finally, IOSCO approved a paper to facilitate information sharing by regulators and market authorities during a market or firm crisis.

Arrangements for Exchange of Information and Assistance

The SEC obtains foreign-based information to protect U.S. investors and markets from cross-border fraud and other violations of the U.S. federal securities laws. The SEC has entered into 32 arrangements with foreign counterparts for information sharing and cooperation in the investigation and prosecution of securities law violations. As an outgrowth of its experience in the enforcement arena, the SEC has expanded its arrangements to encompass cooperation on regulatory matters.

The SEC signed a Memorandum of Understanding (MOU) with the Bank of England and the Commodity Futures Trading Commission to strengthen regulatory oversight of globally active U.S. and U.K. entities engaged in securities and futures activities. The newly named U.K. Financial Services Authority (FSA) also signed the MOU to confirm that its provisions will continue upon the transfer of U.K. banking supervision to the FSA in 1998. The MOU is the first formal understanding among U.S. and U.K. securities, futures and banking regulators, and evidences increased regulatory cooperation across international borders and across financial sectors (securities and banking).

The SEC signed an MOU with the Bundesaufsichtsamt für den Wertpapierhandel (BAWe) (Germany's securities regulator) for cooperation and sharing information in enforcing U.S. and German securities laws. The MOU is the first to be signed by the BAWe with a securities authority outside of the European Union.

The SEC signed an MOU with the Comissao do Mercado de Valores Mobiliarios (CVM) of Portugal, concerning consultation and cooperation in enforcing U.S. and Portuguese securities laws. The MOU was signed after Portuguese law was amended to allow the CVM to use its investigatory powers on behalf of foreign regulators.

Enforcement Cooperation and International Cases

Assistance from foreign authorities helps the SEC to institute enforcement proceedings. In 1997, the SEC made 240 requests to foreign governments for enforcement assistance and responded to 363 requests for enforcement assistance from foreign governments. The following are significant cases involving either the SEC's receipt of assistance from foreign regulators or substantial international dimensions.

SEC v. Pinez. After the SEC sued the defendant in the U.S., he moved over \$1 million in alleged insider trading proceeds to an account in Jersey. Based on information provided by the Jersey Financial Services Commission, the SEC brought an action in Jersey and had the illegally obtained proceeds frozen there.

SEC v. Montedison. With assistance of the Italian Commissione Nazionale per le Società e la Borsa, the SEC brought action against a foreign issuer for fraudulent financial statements and disclosures. This case demonstrates that foreign firms listing in the U.S. will be held to the same disclosure standards as U.S. firms.

SEC v. Comparator. In this fraud case, the Malaysian Securities Commission and the Malaysian Central Bank assisted the SEC for the first time, obtaining bank records that revealed illegally obtained profits.

SEC v. Ong. The SEC alleged that two Singapore business people bought millions of dollars of common stock and options of APL, a Delaware corporation, in advance of the public announcement that Singapore-based Neptune Orient Lines had agreed to acquire APL. The SEC obtained a temporary restraining order and freeze orders against the defendants.

SEC v. Triton Energy Corp. The SEC alleged violations of the Foreign Corrupt Practices Act by Triton Energy Corp., an international gas and oil company based in Dallas, for allowing and concealing bribes to Indonesian officials. In addition, administrative proceedings were concluded against four former employees in connection with the improper payments and misbookings.

Technical Assistance

The SEC's technical assistance program helps emerging foreign securities markets to develop regulatory structures that promote investor confidence. The technical assistance program is multifaceted and includes training programs, review of foreign securities laws and regulations, and responses to ad hoc requests. In the past year, the Office of International Affairs responded to 160 foreign requests for technical assistance and provided U.S. training for 341 capital market officials from 91 countries.

The cornerstone of the training program is the International Institute for Securities Market Development, a two-week, management-level training program covering the development and oversight of securities markets. Over 100 delegates from 66 countries attended the 1997 Market Development Institute. An additional 101 delegates representing 50 countries attended the week-long International Institute for Securities Enforcement and Market Oversight. SEC staff also conducted training programs on enforcement and disclosure issues geared toward regulators from targeted geographic regions. SEC staff contributed to IOSCO's first international educational program, which focused on the regulation and supervision of market intermediaries.

The Office of International Affairs strengthened its partnership with the U.S. Agency for International Development (USAID), which provides funding for many of the SEC's technical assistance programs. The two agencies entered into a global agreement in 1997 that enables the SEC to provide technical assistance to regulatory agencies and stock exchanges in emerging economies throughout the world. USAID continues to fund the SEC's technical assistance programs in the New Independent States of the former Soviet Union and Central and Eastern Europe, including a regional office training program. Also the SEC began a USAID-funded technical assistance program with Egypt, which includes a short-term resident SEC advisor in Cairo and training for staff of the Egyptian Capital Markets Authority.

International Organizations

Through its involvement in international organizations, the SEC promotes its regulatory approach, fosters high regulatory standards, and

develops international consensus on many issues. The SEC also benefits from a better understanding of foreign regulations, markets and practices as a result of its participation in multilateral organizations.

International Organization of Securities Commissions

With over 150 members, IOSCO promotes cooperation and consultation among the world's securities regulators. In 1997, IOSCO completed work on:

- a paper on internet enforcement and surveillance;
- a resolution focusing on conducting successful investigations and prosecutions of securities violations; and
- a paper identifying the types of core information that may be needed to assess and manage the impact of specific emergency events and that should facilitate information sharing during a crisis.

IOSCO's key ongoing activities include:

- working with the International Accounting Standards Committee² as that body develops international accounting standards for use in cross-border offerings;
- heightening regulators' awareness of the need for their industry to address year 2000 computer issues;
- examining a range of internet-related issues; and
- developing a set of core principles for securities regulation.

Council of Securities Regulators of the Americas

COSRA enhances the efforts of countries in the Americas to develop sound securities markets that are fair to all investors. COSRA's membership represents both developed and emerging markets. In 1997, COSRA approved principles for effective oversight of independent

auditors. COSRA also launched a hemisphere-wide investor education campaign, and will unveil investor education and protection materials that focus on saving and investing.

Organization for Economic Cooperation and Development (OECD)

In May 1997, the OECD Ministers agreed to enact national legislation, as well as sign an international treaty, criminalizing foreign bribery by the end of 1998. The agreement also calls for an end to the tax-deductibility of bribes and stricter accounting and auditing guidelines for companies. The SEC worked with other U.S. government agencies in developing the accounting and auditing guidelines that were adopted.

International Market Oversight

At the 1997 Denver Summit, the heads of state of the Group of Seven (G-7) countries asked securities and banking regulators to cooperate in enhancing regulatory oversight and to promote stronger risk management and improved transparency in markets. The SEC is using its specialized knowledge of foreign securities systems to contribute to two initiatives that respond to the G-7 directive: (1) the SEC is working with IOSCO to develop a core set of principles for regulating securities markets, which should improve the quality of supervision; and (2) within the Joint Forum on Financial Conglomerates, the SEC is working to facilitate information exchange among securities, banking and insurance supervisors concerning the activities of internationally active firms.

Investor Education and Assistance

The Office of Investor Education and Assistance serves investors who complain to the SEC about investment fraud or the mishandling of their investments by securities professionals. The office also responds to a broad range of investor inquiries, produces and distributes educational materials, and organizes town meetings and seminars.

Key 1997 Results

During the year, the investor assistance specialists analyzed and responded to 48,169 complaints and inquiries from the public. These actions helped investors recover approximately \$1 million.

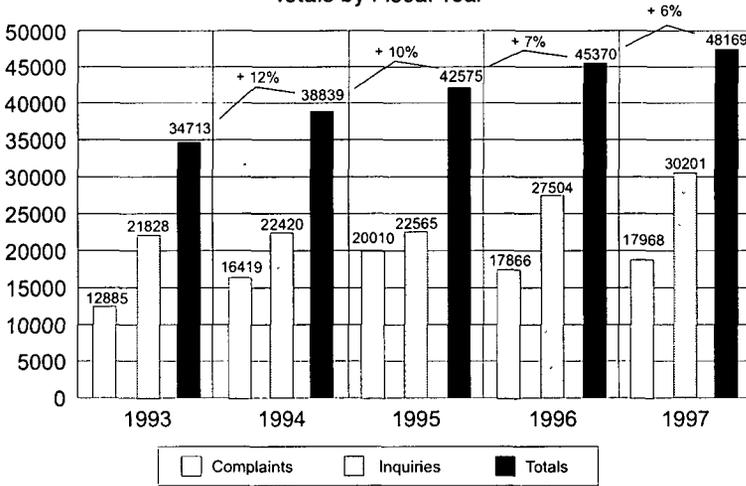
As part of the agency's effort to educate investors, the office organized five investors' town meetings and held twenty-four seminars on how to invest wisely. The office also released two new publications entitled, *Cold Calling Alert* and *Corporate Bankruptcy*.

The Office of Investor Education and Assistance began working with securities regulators from throughout the Western Hemisphere, members of the Council of Securities Regulators of the Americas, to plan an international investor education week from March 29 to April 4, 1998.

Investor Complaints and Inquiries

In 1997, the investor assistance specialists analyzed and responded to 48,169 complaints and inquiries, 6 percent more than in 1996. Since 1993, the volume of investor contacts has risen by over 36 percent.

**OIEA Complaint & Inquiry
Totals by Fiscal Year**



% = percentage increase/decrease over previous year

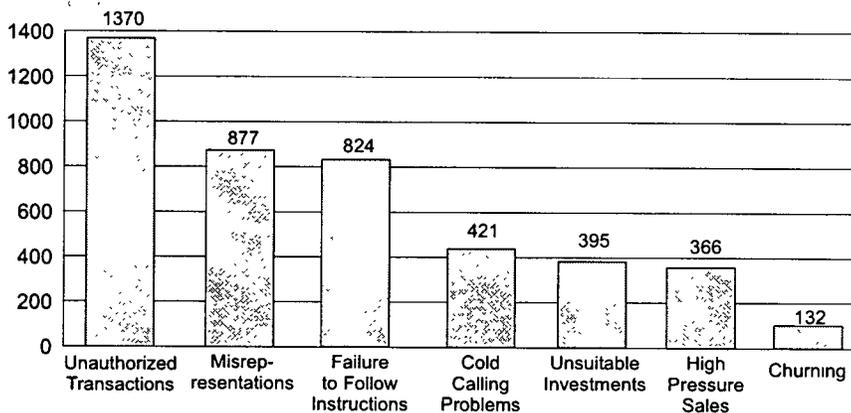
Approximately two-thirds of the 48,169 investor contacts in 1997 were inquiries, and one-third were complaints. The most common investor inquiries included (1) questions about the laws governing the securities industry, (2) questions concerning the filing status of companies, and (3) requests for SEC publications.

Of the 17,968 complaints the investor assistance specialists handled in 1997, approximately 55 percent involved broker-dealers, and approximately 21 percent involved issuers. The remainder involved mutual funds, investment advisers, banks, transfer and clearing agents, and other financial and non-financial entities.

A majority of the broker-dealer complaints involved common stocks. As the chart that follows demonstrates, investors most frequently complained that their brokers engaged in unauthorized transactions. During the year, complaints concerning unauthorized transactions increased by 12 percent compared with 1996. Complaints concerning misrepresentations declined by 8 percent compared with 1996, while complaints concerning a broker's failure to follow instructions rose by 25

percent. A growing number of investors--10 percent more than in 1996--complained about cold calling problems during the year. From 1995 to 1997, cold calling complaints nearly doubled.

**OIEA Broker Dealer Complaints by Major Complaint Type
Fiscal 1997**



During 1997, more than half of the office's initial contacts with investors occurred over the telephone. The remainder came either in the form of letters or through electronic mail (e-mail). In June 1996, the SEC opened an internet e-mail box--"help@sec.gov"--for investor complaints and inquiries. Since then, the investor assistance staff has processed and substantively responded to over 3,486 complaints and inquiries by internet e-mail.

Referrals

When a complaint contains allegations of egregious misconduct or suggests a pattern of sales practice abuses by a broker-dealer, the Office of Investor Education and Assistance refers the complaint to the Division of Enforcement or the Office of Compliance Inspections and Examinations. In 1997, the office referred over 2,000 complaints to other SEC divisions and offices or other regulatory agencies.

Plain English Initiative

The Office of Investor Education and Assistance continued to work with issuers to help them create disclosure documents in plain English. The office also led plain English writing workshops for several groups nationwide, including the New York Stock Exchange's Arbitration Board, the Investment Company Institute, the Financial Accounting Standards Board, the Practicing Law Institute, and various SEC offices and divisions.

Together with the Divisions of Corporation Finance and Investment Management, the Office of Investor Education and Assistance developed guidelines for preparing disclosure documents in plain English. In January 1997, the office prepared and distributed a draft handbook on writing disclosure documents in plain English.

Investor Outreach

Because a well educated investor provides one of the most important defenses against securities fraud, the SEC continued its aggressive investor outreach program. During 1997, the agency's investor education initiatives included:

- Facts on Saving and Investing Campaign. At a June 1997 meeting with the Council of Securities Regulators of the Americas, the council finalized plans to kick-off national public awareness campaigns in each country during the week of March 29 to April 4, 1998. Under a unified banner, 21 countries in the Western Hemisphere joined the Facts on Saving and Investing Campaign, with the slogan: "Get the facts. It's your money. It's your future." In the United States, governmental agencies, the states, consumer groups and industry organizations joined the campaign to promote public awareness of savings and investing options among the public and in the schools.
- Investors' Town Meetings and Seminars. The Office of Investor Education and Assistance organized town meetings in Fort Lauderdale, Florida; San Francisco, California; Los Angeles,

California; Hamden, Connecticut; and Tulsa, Oklahoma. These meetings gave investors an opportunity to talk with Chairman Arthur Levitt and to attend educational seminars on how the markets work and how to invest wisely. In coordination with the securities industry, the office sponsored 24 educational seminars. Over 13,000 investors attended town meetings in 1997, and millions more have viewed them through television broadcasts and videotape distribution.

- New Publications. The Office of Investor Education and Assistance distributes over a dozen brochures that explain in plain English how the securities industry works, how to invest wisely, and what to do if something goes wrong. In February 1997, the office published a new pamphlet entitled, *Corporate Bankruptcy*. This pamphlet answers frequently asked questions about what happens when a public company files for protection under the federal bankruptcy laws. In September 1997, the office released a new brochure entitled, *Cold Calling Alert*. This brochure tells investors what the cold calling rules are, how to deal with cold calls, how to stop them, and how to evaluate investment opportunities that come over the telephone.
- Toll-Free Information Service. The SEC made improvements to its toll-free information service (800-SEC-0330) to better meet the needs of investors. Investors may call the toll-free line 24 hours a day, 7 days a week, to hear investor protection messages, request educational materials, and learn how the SEC can assist them with their complaints and inquiries. The toll-free investor information service received over 15,000 calls during the year.
- Internet Site. The Office of Investor Education and Assistance maintains and regularly updates the investor assistance and complaints section of the SEC's internet website (<http://www.sec.gov>). Investors who access this section can read and download the SEC's educational publications and see the agency's latest investor alerts. They can also link to other internet sites that offer information for investors. During 1997, the investor assistance and complaints section was viewed by over 200,000 users from around the world.

Regulation of the Securities Markets

The Division of Market Regulation oversees the operations of the nation's securities markets and market participants. In calendar year 1997, the SEC supervised approximately 8,500 registered broker-dealers with over 63,000 branch offices and over 556,000 registered representatives. In addition, the SEC oversaw 8 active registered securities exchanges, the National Association of Securities Dealers and the over-the-counter securities market, 15 registered clearing agencies, 748 transfer agents, the Municipal Securities Rulemaking Board, and the Securities Investor Protection Corporation.

Broker-dealers filing FOCUS reports with the Commission had approximately \$2.2 trillion in total assets and \$120.4 billion in total capital for fiscal year 1997. At the end of calendar 1997, equity market capitalization equaled approximately \$12.8 trillion in the United States and \$35.5 trillion worldwide. Average daily trading volume reached 524 million shares on the New York Stock Exchange and 646 million shares on the Nasdaq Stock Market.

Key 1997 Results

The Division issued a concept release that reexamines the regulation of the U.S. securities markets in light of technological developments. The concept release discusses the activities of two types of entities: (1) trading systems that present alternatives to traditional exchange trading; and (2) foreign markets, broker-dealers, and other entities that provide investors in the U.S. with direct electronic links to foreign markets.

The order handling rules, which were implemented this year, appear to have enhanced transparency in the marketplace. Regulation M was also implemented this year. This new approach to public offerings has simplified the process for all participants. This year the market experienced significant trading volume and volatility. Technical support for heavy volume is closely monitored by the staff. The levels at which circuit breakers are triggered are also under review. Guidance on trading,

clearing, and risk assessment are offered telephonically during volatile trading sessions.

The Division conducted two studies that were submitted to Congress this year. First, the *Report on the Practice of Preferencing* discusses the impact of preferencing on retail customers. Second, the *Study of State Licensing Requirements for Associated Persons of Broker-Dealers* addresses the uniformity of requirements among the states and the possibility of streamlining such requirements.

Finally, as part of the continuing implementation of the settlement with the National Association of Securities Dealers (NASD), several major rule proposals were enacted to address issues such as corporate governance, listing standards, and anti-competitive conduct.

Securities Markets, Trading, and Significant Regulatory Issues

Concept Release Concerning Regulation of Alternative Trading Systems, Exchanges, and Foreign Markets

On May 23, 1997, the Commission issued a concept release³⁷ soliciting comment on ways to update the SEC's regulatory framework to address recent changes in the U.S. securities markets resulting from technological advances. The concept release focused on: (1) the rapid growth in electronic trading systems that present alternatives to traditional exchange trading; and (2) the development of technology that allows U.S. investors to trade directly on foreign markets from the United States. The comment period closed October 3, 1997.

Derivatives

The Commission approved several self-regulatory organization (SRO) proposals that strengthened market stability and integrity while facilitating use of exchange-traded derivatives for risk management purposes, including the following:

- proposals changing position and exercise limits for equity and index options;³⁸

- proposals that provide the U.S. options exchanges greater flexibility to set margin standards,³⁹ and
- a proposal by the New York Stock Exchange (NYSE) transferring its options business to the Chicago Board Options Exchange (CBOE).⁴⁰

The Commission also approved several proposals to list and trade new options products, such as packaged butterfly spreads⁴¹ and packaged vertical spreads,⁴² and proposals to list and trade options based on various domestic and international stock indices.⁴³

In 1994, the Derivatives Policy Group (DPG), consisting of the six firms most active in the OTC derivatives market, was formed to address a broad range of regulatory issues. Since 1995, five DPG firms have been reporting to the SEC under a framework for voluntary oversight. In 1997, the five reporting firms provided the SEC with quarterly credit and market risk information. The staff reviewed reports prepared by DPG firms' external auditors concerning the firms' implementation of management controls for OTC derivatives and mathematical models used to calculate risk associated with the firms' portfolios.

The Division continued to work with the International Organization of Securities Commissions (IOSCO) and the Basle Committee on Banking Supervision on a survey regarding the trading and derivatives activities of internationally active banks and securities firms for the period 1993-1997. The survey provided additional information on derivatives activities disclosed in these firms' annual reports.

Automation Initiatives

Rule 17a-23 under the Securities Exchange Act of 1934 (Exchange Act) requires brokers and dealers that operate automated trading systems to maintain participant, volume, and transaction records, and to report system activity periodically to the SEC.⁴⁴ The Division received 135 filings for automated trading systems.

Automation reviews of the exchanges, Nasdaq, and clearing agencies continued, including 9 on-site reviews that resulted in 9 reports and 30 recommendations for technology improvements.⁴⁵ Through the

Automation Review Policy program, the staff monitored and assessed the SROs' national market system electronic data processing facilities. The staff also completed 9 technology updates and performed 3 special reviews of information vendors and broker-dealers. In addition, the staff undertook numerous special projects to address relevant technology issues, including: (1) systems capacity, (2) quoting stocks in sixteenths, and (3) decimalization.

The staff issued no-action letters providing relief to the following broker-dealers with respect to their operation of automated trading systems without registration as an exchange under section 6 of the Exchange Act: (1) TradeWeb LLC, (2) Niphix Investments Inc., and (3) Bloomberg Tradebook LLC.⁴⁶ In addition, the staff issued letters confirming that previously issued no-action letters providing relief from exchange registration will continue to apply if additional types of securities are traded on the system⁴⁷ or if the ownership of the system sponsor changes but does not affect the operation of the system.⁴⁸

In October 1996, the staff granted no-action relief to The Flamemaster Corporation, permitting it to operate an internet bulletin board on which investors can post indications of interest to buy and sell the company's shares.⁴⁹ The staff noted in particular that buyers and sellers would have to execute and settle their transactions independently of the trading system.

Year 2000 Compliance

Throughout 1997, the Automation Review Policy program focused on the industry's efforts to prepare its computer systems for the year 2000. The Division undertook or was heavily involved in the following year 2000 projects:

- ongoing oversight and review of SRO remediation efforts;
- periodic surveys to assess SRO progress towards year 2000 compliance;
- review of broker-dealer year 2000 compliance efforts;

- development of a year 2000 examination checklist for agency-wide use;
- assessment of compliance among third-party vendors;
- coordination with industry, other agencies, and Congress regarding year 2000 issues; and
- the Commission's Year 2000 Task Force, including the preparation of a report to Congress on year 2000 issues.

Order Handling Rules

On January 20, 1997, the Commission began phasing in the order handling rules. The order handling rules were designed to improve the handling and execution of customer orders in exchange-traded securities and securities traded over-the-counter (OTC).⁵⁰ As of October 13, 1997, all exchange-listed and Nasdaq securities were phased-in.⁵¹

Trading Practices Developments

The Commission completed a comprehensive restructuring of its anti-manipulation regulation of securities offerings by adopting Regulation M and rescinding Exchange Act rules 10b-6, 10b-6A, 10b-7, 10b-8, and 10b-21 (the trading practice rules).⁵² Regulation M is intended to prevent manipulative conduct by persons with an interest in the outcome of an offering, such as underwriters, issuers, and selling security holders. The regulation provides streamlined and flexible regulation of market participants and enhances marketplace competition, while retaining investor safeguards. Regulation M consists of six rules, including a definitional rule, covering:

- the activities of underwriters and other persons participating in a distribution;
- the activities of issuers and selling security holders conducting a distribution;
- Nasdaq passive market making;

- stabilization transactions and similar offering-related activities by underwriters;
- the recordkeeping of underwriting syndicate activity; and
- short selling in anticipation of a public offering.

Odd-Lot Tender Offers by Issuers

In December 1996, the Commission amended rule 13e-4 to make it easier for issuers to conduct continuous, periodic, or extended tender offers to shareholders of odd-lots (*i.e.*, 99 or fewer shares).⁵³ The amendment provides issuers with greater flexibility in reducing the number of small shareholdings where the costs to issuers of servicing such holdings, and the costs to shareholders of selling such holdings, are disproportionate to their value.

Unlisted Trading Privileges

The Joint Industry Plan for Unlisted Trading Privileges in OTC Securities (OTC/UTP Plan), operating under temporary Commission approval, permits exchanges to trade Nasdaq/national market securities subject to the terms of the OTC/UTP Plan. Currently, any exchange participant to the plan may trade up to 500 Nasdaq/national market securities. On June 30, 1997, the Commission extended its temporary approval of the OTC/UTP Plan through December 30, 1997.⁵⁴ The Commission also approved trading of Standard & Poor's Depository Receipts and Standard & Poor's MidCap 400 Depository Receipts pursuant to unlisted trading privileges.⁵⁵

Municipal Securities

The staff responded to requests for interpretive or no-action guidance regarding the application of the November 1994 amendments to rule 15c2-12 under the Exchange Act. For example, on July 3, 1997, the Division issued an interpretive letter stating that the initial assignment by Moody's Investors Service, in January 1997, of modifiers to rating symbols was not the type of event for which "material event" reporting was intended to be required under rule 15c2-12.⁵⁶

Letters to the Commodity Futures Trading Commission

The staff responded to requests from the Commodity Futures Trading Commission (CFTC) for SEC views regarding various proposals to trade financial products. Of particular note, the staff issued letters to the CFTC relating to:

- the Chicago Mercantile Exchange's proposal to trade futures and futures options on the Mini Standard & Poor's 500 Stock Price Index;⁵⁷
- the application of the Singapore International Monetary Exchange Limited (Simex) to permit the offer and sale to persons in the United States of futures and futures options on the Morgan Stanley Capital International Taiwan Index to be traded on or subject to the rules of Simex;⁵⁸ and
- the designation of the Chicago Board of Trade as a contract market for futures and futures options on the Dow Jones Industrial Average.⁵⁹

International Activities

Supervisory Oversight

The SEC took a leading role to improve supervisory oversight of participants in the global securities industry. During 1997, the staff participated in bilateral and multilateral efforts to: (1) enhance the cooperation among supervisors with oversight of internationally active financial institutions; (2) strengthen risk management and capital assessment in firms; (3) improve transparency in the derivatives markets; and (4) reduce payment and settlement risk.

In furtherance of its August 1995 joint initiative with the Securities Investment Board to conduct an analysis of the financial, operational, and management controls used by major global financial conglomerates involved in significant cross-border securities and banking activities, the staff participated with United States and United Kingdom securities firms

and banking entities in oversight reviews of major global financial conglomerates. The joint reviews have improved communication channels between the United States and the United Kingdom and have resulted in additional bilateral meetings to discuss firm-specific issues, as well as additional discussions on the sharing of information in emergency situations.

Within IOSCO, SEC staff have prominent roles in the standing working groups on the regulation of secondary markets (WG2) and the regulation of market intermediaries (WG3). In 1997, WG2 prepared a paper to provide guidance to supervisors on information sharing, developed with their Bank of International Settlement counterparts a disclosure framework for securities settlement systems, and continued to work on the supervisory challenges presented by the year 2000. WG3 initiated work on defining acceptable methodologies for determining minimum capital standards and supervisory approaches, as well as risk management and internal controls and systems, to be applied to internationally active securities firms.

Memorandum of Understanding

In October 1997, Chairman Arthur Levitt signed a Memorandum of Understanding (MOU) with the Bank of England. The MOU establishes a framework to share supervisory information on globally active United States securities firms and United Kingdom banking entities engaged in cross-border securities and futures activities.

Broker-Dealer Regulation

Report on the Practice of Preferencing

Section 510(d) of the National Securities Markets Improvement Act of 1996 (NSMIA) directed the Commission to conduct a study on the impact on investors and the national market system of the practice of preferencing on one or more registered exchanges. Congress specified that the study should examine: (1) how preferencing impacts the execution prices received by retail securities customers whose orders are preferenced; (2) the ability of retail securities customers in all markets to obtain executions of their limit orders in preferenced securities; and (3) the cost of

preferencing to retail securities customers. The Commission submitted its report entitled *Report on the Practice of Preferencing* to Congress on April 11, 1997.

The Commission generally concluded that preferencing has not had a deleterious effect on the national market system, has not diminished the quality of preferencing exchanges as compared to other regional exchanges, and has enhanced the preferencing exchanges' ability to compete. More specifically, the Commission found that preferencing has not diminished the ability of customers to receive quality executions. The report reiterated broker-dealers' duties of best execution in selecting markets for routing customer orders.

Study of State Licensing Requirements for Associated Persons

On October 10, 1997, the Commission submitted to Congress its study of the impact of disparate state licensing requirements on associated persons of registered broker-dealers, as requested by Congress. The report is entitled *Study of State Licensing Requirements for Associated Persons of Broker-Dealers*.

The Commission found that the states have achieved substantial uniformity in their agent licensing requirements and procedures, but that certain disparities exist that may cause unnecessary delays in the agent licensing process. Accordingly, the Commission recommended that the states work together and with industry participants to further streamline state licensing requirements. The Commission offered in its report several recommendations for the states and the industry to consider in working toward this goal. Because the Commission believes that state regulators perform a valuable service in scrutinizing individuals wishing to engage in securities transactions in their jurisdictions, it did not recommend a wholesale replacement of the existing state licensing process.

Electronic Record Retention for Broker-Dealers

The Commission amended rule 17a-4 to allow broker-dealers to use electronic storage media (including optical disk and CD-ROM) to maintain their records.⁶⁰ The adopting release for the amendments includes a Division no-action position that will permit broker-dealers, transfer agents, and clearing agencies to fulfill their record retention and preservation

requirements set forth in rules under the Exchange Act by using electronic storage media. The adopting release also includes an interpretation of rule 17a-4 that requires broker-dealers to retain electronic mail and internet communications that relate to a broker-dealer's business.

Net Capital Rule

The Commission approved amendments to rule 15c3-1 (the net capital rule) to permit broker-dealers to use theoretical option pricing models in determining capital requirements for listed options and related positions.⁶¹ The amendments are intended to simplify the net capital rule's treatment of options for capital purposes and more accurately reflect the risk inherent in broker-dealer options positions.

Mortgage-Backed Securities

In December 1996, the Division issued a no-action letter that permits broker-dealers to use an alternative method to calculate haircuts (*i.e.*, the percentage reduction in value when determining net capital) for certain pass-through mortgage-backed securities.⁶² Rather than basing the haircut on their remaining time to maturity as the current rule requires, under the no-action letter, the haircut for pass-through mortgage-backed securities is based on their market price relative to par value. Under the no-action letter, capital charges for pass-through mortgage-backed securities are better matched to the actual hedging practices of broker-dealers, thereby substantially lowering haircuts for these broker-dealers and making the capital charges consistent with the actual risk assumed by broker-dealers.

Books and Records Rules

The Commission proposed amendments to rules 17a-3 and 17a-4 in response to concerns of the North American Securities Administrators Association that the rules do not obligate broker-dealers to make and retain certain types of records that would be valuable to state regulators during examination and enforcement proceedings.⁶³ The proposed amendments modify and expand recordkeeping requirements for: (1) purchase and sale documents, (2) customer records, (3) associated person records, (4) customer complaints, and (5) certain other matters. In addition, the proposed amendments specify certain types of books and records that broker-dealers must make available in their local offices.

Foreign Broker-Dealers

On April 9, 1997, the staff issued a letter granting no-action and interpretive relief relating to rule 15a-6 in a number of important respects. The letter expands the definition of a major U.S. institutional investor in the rule to include any entity, including any investment adviser (whether or not registered), with aggregate financial assets in excess of \$100 million. The letter also relaxes rule 15a-6's chaperoning requirements and permits the direct transfer of funds and securities between a U.S. institutional investor and a foreign broker-dealer in transactions involving the clearance and settlement of foreign securities or U.S. government securities.⁶⁴

The staff granted no-action relief to Morgan Stanley & Co. (Morgan) and its India affiliate (Morgan India) for transactions in Indian securities executed in India by Morgan India for Morgan's U.S. institutional customers. Indian law precludes Morgan, as a U.S. broker-dealer, from holding funds and securities on behalf of its U.S. customers whose transactions in Indian securities are executed through Morgan India. Under the no-action letter, transactions in Indian securities between Morgan's U.S. institutional customers and Morgan India may be cleared and settled through each customer's custodian in India on a delivery-versus-payment basis or through India's National Stock Exchange clearinghouse, which nets obligations of its members and guarantees settlement of their trades.⁶⁵

Telemarketing Rules

The Telemarketing and Consumer Fraud Prevention Act (Telemarketing Act)⁶⁶ required the Commission to issue a rule, or direct the SROs to issue a rule, that prohibits certain deceptive and abusive telemarketing practices in connection with the sale of securities. The staff worked with the SROs to combat cold-calling abuses in the securities industry. As a result, several of the SROs adopted rules that prohibit certain telemarketing practices in connection with the sale of securities. On April 7, 1997, the Commission found that these rules satisfied the requirements of the Telemarketing Act.⁶⁷ To date, the NASD, the NYSE, the American Stock Exchange (AMEX), the MSRB, the Philadelphia Stock Exchange (PHLX), and the CBOE have adopted these types of rules.

Internet Issues

In response to a request from the Small Business Administration, the staff granted no-action relief from broker-dealer registration to the Angel Capital Electronic Network (the Network) and the universities and other nonprofit entities that participate in its operation. The Network is an internet website that allows accredited investors to gain access to a password-controlled listing of small corporate stock offerings exempt from registration under Regulation A or D and to download offering circulars. Accredited investors can also review listings with the help of a “search engine” that will sort listings based on various criteria, including state, type of business, amount of capital needed, and minority ownership.⁶⁸

The staff granted no-action relief from broker-dealer registration to America Online, Compuserve, and Microsoft. The relief enables each online service to connect its subscribers to Charles Schwab & Co., Inc. (Schwab) and receive a nominal, flat fee per order from Schwab for each securities order sent by its subscribers to Schwab through the online service. The online services may not, among other things, recommend specific securities, take part (other than by routing messages) in the financial services offered by Schwab, answer questions or engage in negotiations involving securities accounts or transactions, accept or route orders, handle customer funds or securities, extend credit to customers in connection with securities transactions, or receive any fee from Schwab other than a flat fee per order transmitted. The fee may not vary depending on the number of shares or value of the securities included in the order or whether the order results in an executed trade.⁶⁹

Money Laundering

The Division worked with the Financial Crimes Enforcement Network of the Department of Treasury on practical approaches to combat money laundering. The Division also participated in the Bank Secrecy Act Advisory Group and in the United States delegation to the Financial Action Task Force on Money Laundering.

Arbitration and Mediation

Continuing efforts to strengthen the securities arbitration process, the Division worked closely with the NASD and other members of the

Securities Industry Conference on Arbitration. On July 1, 1997, the Commission approved an NASD proposal to impose surcharges on its members who are named in arbitration proceedings in order to fund enhancements to its program.⁷⁰ On May 14, 1997, the Commission approved an NASD proposal that increases to \$25,000 the claims that can be resolved under the NASD's simplified arbitration procedures.⁷¹ Work also continued on regulatory responses to the 1996 recommendations of the NASD Arbitration Policy Task Force.

Extension of Credit

The staff granted no-action relief to permit registered broker-dealers to underwrite a limited portion of a foreign distribution of securities, sold on an installment basis, to qualified institutional buyers (QIBs) and other institutional accredited investors. In those transactions, the staff generally conditioned the relief on the fact that:

- the global offering would be large, making it difficult for the host market to absorb the full cost of the offering in one payment;
- a limited portion of the offering, never exceeding 20%, would be sold in the U.S.;
- the U.S. portion of the offering would be sold in the United States solely to QIBs and a limited number of other institutional accredited investors;
- it was customary in the host country, which would provide the primary secondary market for these securities, to distribute securities on an installment basis; and
- the securities would be sold in the U.S. under substantially the same terms and conditions as they would be sold in the host country.⁷²

Transaction Confirmations

The staff, by delegated authority, granted exemptive relief from rule 10b-10 to permit registered broker-dealers to confirm transactions in U.S.

Treasury Inflation Indexed Securities (TIPS). Because the principal amount of TIPS is adjusted daily for inflation, broker-dealers sought relief relating to the required disclosure of the price and principal amount and yield-to-maturity on the confirmation.⁷³

The staff granted no-action relief to the NASD, NASD Regulation, and Nasdaq, on behalf of all registered broker-dealers, to permit them to send average-price and multiple capacity confirmations of individual orders effected through multiple executions in compliance with the Commission's order handling rules.⁷⁴ The staff letter clarifies that broker-dealers will not have to send multiple confirmations where the individual orders are filled through more than one execution.

The staff granted no-action relief to MBS Clearing Corporation (MBSCC), on behalf of its members, to permit MBSCC broker-dealer participants to confirm principal transactions with MBSCC non-broker-dealer participants, in certain government securities cleared through MBSCC, by relying on MBSCC generated confirmations of the transactions. The staff provided that MBSCC participants may rely on delivery of: (1) the MBSCC Purchase and Sale Report and the Message Detail Report, to customer participants as confirmation of principal trades between those MBSCC broker-dealer participants and MBSCC non-broker-dealer participants; (2) the Purchase and Sale Report to customer participants, but deliver pool allocation information to customers independently of MBSCC; and (3) the Message Detail Report to customers to provide pool allocation information, but send all other information required by rule 10b-10, including their capacity, to satisfy rule 10b-10.⁷⁵

Transfer Agent Regulation

Transfer agents maintain records of securityholders, including the securityholders' addresses, on behalf of corporations. Because transfer agents maintain these records, they typically send out dividend checks, interest payments, and other items to securityholders. For various reasons, transfer agents occasionally have outdated or incorrect addresses for some securityholders. As a result, these lost securityholders do not receive benefits or information from their companies. On October 7, 1997, the Commission adopted two rules that should reduce the number of lost

securityholders.⁷⁶ The first rule requires transfer agents to search for the correct address at least twice during a three-month period when the transfer agents does not have a correct address for a securityholder. Under the rule, a transfer agent does not have the correct address when two separate items of correspondence mailed at least three months apart are returned to the transfer agent as undeliverable. The second rule requires transfer agents to file information about their lost securityholders with the SEC.

Lost and Stolen Securities Program

As of December 31, 1996, 25,231 institutions were registered in the program, a 1 percent increase over 1995. The number of securities certificates reported as lost, stolen, missing, or counterfeit decreased 4 percent, from 2,171,867 in 1995 to 2,093,233 in 1996. The aggregate dollar volume of these reported certificates has decreased 76 percent, from \$234,516,242,722 in 1995 to \$56,177,860,398 in 1996. The total number of lost and stolen reports received decreased 25 percent, from 217,030 in 1995 to 162,076 in 1996. However, the dollar value of recovery reports received increased 265 percent, from \$1,916,322,423 in 1995 to \$7,000,530,298 in 1996. The total number of certificates inquired about by institutions participating in the program increased 37 percent, from 6,221,425 in 1995 to 8,538,192 in 1996. In 1996, the dollar value of certificate inquiries that matched previous reports of lost, stolen, missing, or counterfeit securities certificates increased 883 percent, from \$525,592,801 to \$5,164,280,780.

Oversight of Self-Regulatory Organizations

National Securities Exchanges

As of September 30, 1997, there were eight active securities exchanges registered with the SEC as national securities exchanges: AMEX, Boston Stock Exchange (BSE), CBOE, Cincinnati Stock Exchange (CSE), Chicago Stock Exchange, NYSE, PHLX, and Pacific Exchange (PCX). The SEC granted exchange applications to delist 102 debt and equity issues, and granted applications by issuers requesting withdrawal from listing and registration for 54 issues.

The exchanges submitted 209 proposed rule changes during 1997. A total of 272 pending and new filings were approved by the SEC, and 11 were withdrawn. Rule filings approved by the SEC included:

- an amendment to revise circuit breaker rules to increase the trading halt levels from declines of 250 to 350 points and 400 to 550 points in the Dow Jones Industrial Average;⁷⁷
- proposals to trade equity securities in trading increments of sixteenths of a dollar;⁷⁸
- rules for Optimark, a new trading facility operated by the PCX that matches contra-orders based on the price, quantity, and relative willingness to buy or sell a particular security;⁷⁹ and
- amendments to the Articles of Incorporation and By-Laws of the PHLX to provide for a balanced Board of Governors and a revised committee structure.⁸⁰

National Association of Securities Dealers, Inc.

The NASD is the only national securities association registered with the SEC and includes more than 5,500 member firms. The NASD owns and operates the Nasdaq Stock Market as a wholly-owned subsidiary.

The NASD submitted 95 proposed rule changes to the SEC during the year. The SEC approved 73 proposed rule changes, including some pending from the previous year, and 7 were withdrawn. Among the significant changes approved by the SEC were:

- a rule revising NASD Nasdaq National Market and SmallCap listing standards;⁸¹
- proposals to revise corporate governance documents, disciplinary proceedings, and procedures regarding membership;⁸²
- an interpretation of NASD conduct rule 2110 relating to anticompetitive conduct;⁸³

- audit trail procedures;⁸⁴ and
- the excess spread rule.⁸⁵

The SEC also approved SR-NASD-97-7, which granted permanent approval to the OTC Bulletin Board Service (OTCBB).⁸⁶ The OTCBB provides a real-time quotation medium that NASD member firms can use to enter, update, and retrieve quotation information (including unpriced indications of interest) for equity securities traded over-the-counter that are neither listed on the Nasdaq Stock Market nor on a primary national securities exchange. Under the terms of the rule approval, after March 31, 1998, all securities quoted on the OTCBB must be fully registered with the SEC under section 12 of the Exchange Act to remain eligible to be quoted on the OTCBB.

In addition, the SEC approved the Actual Size Rule to expand from 50 to 150 the number of securities in a pilot program for which market makers may quote their actual size, reducing the minimum quotation size requirement for market makers in certain securities listed on the Nasdaq Stock Market to one normal unit of trading. The pilot was also extended through March 28, 1998.⁸⁷

As part of its settlement with the Commission in 1996, the NASD committed to perform various undertakings in 1997. The staff received and coordinated multiple rule changes as noted above from the NASD to satisfy many of these undertakings. In addition, the staff, in conjunction with the Division of Enforcement, continued to assist the NASD in enhancing existing rules and procedures in accordance with the undertakings.

Municipal Securities Rulemaking Board

The MSRB is the primary rulemaking authority for municipal securities dealers. The SEC received 8 new proposed rule changes from the MSRB. A total of 9 new and pending proposed rule changes were approved by the SEC. Among these were interpretations of several rules concerning political contributions, notice following a close-out, and the use of consultants.⁸⁸ The SEC also approved a rule amendment to increase transparency in the municipal market by adding retail and institutional

customer transaction information to the inter-dealer transactions that are already part of the MSRB's Transaction Reporting Program.⁸⁹

Clearing Agencies

Fifteen clearing agencies were registered with the SEC at the end of 1997. On July 1, 1997, the SEC proposed registering the EMCC⁹⁰ to clear and settle Brady bonds. The SEC also exempted Cedel Bank⁹¹ from registration as a clearing agency and proposed exempting Euroclear from registration as a clearing agency.⁹²

Registered clearing agencies submitted 240 proposed rule changes to the SEC. The SEC processed 123 new and pending proposed rule changes including the following:

- The Depository Trust Company (DTC) amended its charge back and return of funds policies to shorten from ten business days to one business day after the payable date the period within which a paying agent can request that DTC return principal and income payments that have been allocated to participants.⁹³
- The National Securities Clearing Corporation (NSCC) amended its rules to permit unit investment trusts to be processed through NSCC's Fund/SERV, Networking and Mutual Fund Commission Settlement Services. Prior to the rule change, unit investment trusts were eligible for NSCC processing only through NSCC's continuous net settlement system.⁹⁴
- The Commission approved a proposed rule change filed by the Options Clearing Corporation (OCC) to change the method by which it values the equity securities and corporate debt securities that its clearing members are permitted to deposit as margin collateral. Under the rule change, OCC increased the valuation rate that it applies to those securities from 60 percent to 70 percent.

Applications for Re-entry

Rule 19h-1 under the Exchange Act prescribes the form and content of, and is the mechanism by which the Commission reviews, proposals submitted by SROs to allow persons subject to statutory disqualification (as defined in section 3(a)(39) of the Exchange Act) to become or remain associated with member firms. In 1997, the Commission received 42 filings from SROs pursuant to rule 19h-1. Of the 42 filings, the NASD made 27, the NYSE made 14, and the AMEX made 1.

Investment Management Regulation

The Division of Investment Management regulates investment companies (which include mutual funds) and investment advisers under two companion statutes, the Investment Company Act of 1940 and the Investment Advisers Act of 1940. The Division also administers the Public Utility Holding Company Act of 1935.

Key 1997 Results

During 1997, the Division of Investment Management focused on implementing the provisions of the National Securities Markets Improvement Act of 1996 (NSMIA) and proposing revisions to the way investment companies communicate with their shareholders. NSMIA required the Commission to adopt a number of new rules, including rules governing the new division of jurisdiction over investment advisers between the SEC and the states. The Division proposed major changes to the primary disclosure form used by all mutual funds and proposed the use of a new disclosure document, called a “profile,” that is intended to provide investors with a summary of key information about a mutual fund.

The Division also issued many no-action and interpretive letters addressing rapid changes occurring in the investment company and investment advisory businesses.

Significant Investment Company Act Developments

Rulemaking

Mutual Fund Disclosure Initiatives

The Commission proposed three major initiatives in February 1997 to improve the disclosure of information about mutual funds to investors. These initiatives were the result of the Commission’s efforts to identify ways to promote more effective communication of information about mutual funds. The efforts included:

- *Amendments to Mutual Fund Registration Form.* The Commission proposed amendments to Form N-1A, the mutual fund registration form, to improve prospectus disclosure.⁹⁵ The proposed amendments would (1) minimize prospectus disclosure about organizational and legal matters that does not help investors evaluate mutual funds and (2) focus disclosure on essential information about a fund that investors need to know before investing. In recognition of the importance of risk disclosure to investors, the proposed amendments would require a new risk/return summary at the beginning of a mutual fund prospectus (and the proposed profile). The risk/return summary would include a concise narrative description of a mutual fund’s overall risks, a bar chart of a fund’s annual returns for 10 years that illustrates performance fluctuations from year to year, and a table that compares a fund’s performance to that of a broad-based securities market index.
- *Fund Profiles.* The Commission proposed rule 498, which would permit funds to use a short-form disclosure document called a “profile.”⁹⁶ The proposed profile summarizes key information about a mutual fund in a standardized format designed to facilitate comparison among funds. If a fund uses a profile, an investor could purchase the fund’s shares based on the profile or could request and review the fund’s prospectus and other information before making an investment decision. All investors would receive a prospectus no later than confirmation of purchase.
- *Fund Names.* The Commission also proposed rule 35d-1.⁹⁷ It would require a mutual fund (or other registered investment company) with a name suggesting that the fund focuses on a particular type of investment (*e.g.*, stocks or bonds) to invest at least 80 percent of its assets in the type of investment suggested by its name. Under current staff guidelines, these funds are subject to a 65 percent investment requirement. The proposed rule is intended (1) to provide investors with greater assurance that a mutual fund’s investments are consistent with its name and (2) to help reduce confusion when an investor selects a fund for specific investment needs and asset allocation goals.

Private Investment Companies

The Commission adopted new rules to implement provisions of NSMIA that exclude privately offered investment companies from regulation under the Investment Company Act.⁹⁸ The rules define terms under the new exclusion for certain privately offered companies, all of whose investors are highly sophisticated or qualified purchasers. The rules also address several other matters, including transition issues for existing privately offered investment companies with no more than 100 investors.

Affiliated Underwriters

The Commission adopted amendments to rule 10f-3.⁹⁹ This rule permits a fund affiliated with a member of an underwriting syndicate to purchase securities underwritten by the syndicate when certain safeguards are met. The amendments increase the percentage of an underwriting that a fund may purchase, alone or with other funds having the same investment adviser, from approximately 4 percent to 25 percent. The amendments also expand the scope of the rule to permit purchases of the securities of certain foreign and domestic issuers not registered under the Securities Act. The amendments are intended to provide funds with additional flexibility to make investments that may be in the best interest of their shareholders, while continuing to protect those shareholders from underwriters that seek to “dump” unmarketable securities on funds that they control.

Money Market Funds

The Commission proposed technical amendments to rule 2a-7, the rule that regulates money market funds.¹⁰⁰ The amendments would revise the rule’s terminology and its treatment of certain instruments to reflect market usage. The amendments also would resolve interpretive issues, including the application of other amendments adopted in 1996 concerning tax-exempt money market funds and investments in asset-backed securities.¹⁰¹ The Commission also proposed to amend its advertising rules to clarify the formula used to calculate yield for money market funds.¹⁰²

Foreign Custody Arrangements

The Commission adopted amendments to rule 17f-5, the rule that governs the custody of fund assets outside of the United States.¹⁰³ The amendments give funds greater flexibility in managing their foreign custody arrangements, consistent with the safekeeping of fund assets. The amendments expand the class of foreign banks and securities depositories that may serve as fund custodians and permit a fund's board of directors to delegate its responsibility to select and monitor foreign custodians.

Registration Fees for Certain Funds

The Commission adopted amendments to rule 24f-2, the rule that prescribes the method by which certain funds calculate and pay registration fees under the Securities Act.¹⁰⁴ The amendments implement provisions of NSMIA that simplify the method of determining fee amounts.

Multiple Class Funds

The Commission adopted amendments to rule 18f-3, the rule that permits mutual funds to issue multiple classes of shares representing interests in the same portfolio.¹⁰⁵ The amendments expand and clarify the methods by which a multiple class fund may allocate among its classes income, gains and losses, and expenses not allocated to a particular class. The amendments also clarify the shareholder voting provisions of the rule.

Asset-Based Sales Loads

The Commission adopted an amendment to rule 12b-1, the rule that permits the use of mutual fund assets to pay for the distribution of fund shares.¹⁰⁶ The amendment clarifies the application of the rule to a series fund offering a variety of investment portfolios.

Disclosure

Disclosure Improvement

For several years, the Division of Investment Management has encouraged investment companies to improve their prospectus disclosure by using plain English and eliminating legalistic, technical, and overly

complicated disclosure. In 1997, the number of investment companies that improved their prospectus disclosure in this manner increased substantially. The staff provided informal guidance concerning disclosure requirements to many of these investment companies.

Filings Reviewed

In 1997, the staff reviewed 79 percent of the 1,870 new portfolios filed with the Commission, including over 90 percent of newly filed mutual fund and closed-end portfolios. The staff also reviewed 85 percent of the 809 proxy statements filed, 15 percent of the 16,028 existing portfolios filed, and 435 insurance contract filings.

Exemptive Orders

The Commission issued 324 exemptive orders to investment companies (other than insurance company separate accounts) seeking relief from various provisions of the Investment Company Act. Some of the more significant developments with regard to exemptive orders in 1997 are discussed below.

Funds of Funds

NSMIA permitted mutual funds to invest in other mutual funds that are part of the same fund family. NSMIA also granted the Commission specific exemptive authority to permit other types of funds-of-funds arrangements. The Commission granted a number of exemptive orders to funds seeking flexibility to invest in operating companies in addition to investing in funds in their own family.¹⁰⁷ In addition, the Commission granted an order permitting a fund that invests in its own fund family to invest in unaffiliated funds in reliance on a separate provision in the Investment Company Act.¹⁰⁸

Plain English Notices of Exemptive Applications

The process of issuing an exemptive order under the Investment Company Act involves publishing for public comment a notice summarizing the application. To further the SEC's goal of improving communications with investors, the staff undertook an initiative to issue plain English notices. These changes are designed to make the notices

easier to understand and more effective in communicating information to the public.

Interpretive and No-Action Letters

The Division of Investment Management responded to 631 formal and informal requests for interpretive guidance under the Investment Company and Investment Advisers Acts during 1997. Some of the more significant interpretive and no-action letters issued by the staff during the year are discussed below.

Merger of Investment Advisers

The staff took the position that the merger of two publicly-traded, widely-held financial services holding companies as equals does not constitute an assignment of the advisory contracts of their respective investment adviser subsidiaries.¹⁰⁹

Foreign Investment Companies

The staff concluded that an unregistered foreign fund would not violate the public offering restrictions of the Investment Company Act if it sells its securities exclusively to qualified purchasers in the United States, complying with the provisions of section 3(c)(7) of the Investment Company Act. In addition, an unregistered foreign fund generally may rely on the definition of "U.S. Person" in Regulation S under the Securities Act to determine whether a potential investor is a U.S. resident.¹¹⁰

Pricing of Fund Shares

The staff took the position that a mutual fund would not violate Commission rules on pricing of mutual fund shares if it prices purchase and sale orders placed with an authorized agent of the fund at the net asset value next computed after receipt of the order by the agent.¹¹¹

Private Fund Offerings on the Internet

The staff adopted the position that a company may create and maintain a world wide website featuring information about private fund

offerings that can be accessed only by pre-qualified accredited investors or qualified purchasers. Similarly, private funds and their advisers could place information on a website without being required to register under the Investment Company Act or the Investment Advisers Act, respectively. In reaching these conclusions, the staff emphasized the importance of a password protection system that limited access to pre-qualified purchasers.¹¹²

Purchases from an Affiliated Underwriter

The staff agreed not to recommend enforcement action under the Investment Company Act or the Investment Advisers Act against a fund that purchases securities in a private placement for which the placement agent is an affiliate of the fund's adviser because the placement agent's compensation would be within specified limits and the transactions would be structured to minimize potential conflicts of interest.¹¹³

Closed-End to Open-End Fund Conversions

The staff agreed that a closed-end fund that converts to an open-end fund without obtaining prior shareholder approval would not violate the Investment Company Act if the conversion is triggered when certain objective standards are met and those standards are disclosed prominently in the fund's prospectus.¹¹⁴

Allocation of Fund Advisory Fees

The staff adopted the position that advisory fees paid by a fund may be reallocated between the fund's investment adviser and the fund's sub-adviser without shareholder approval if the total advisory fee does not increase and the fund complies with all of the other requirements of the Investment Company Act provision governing investment advisory contracts.¹¹⁵

Insurance Products

The Division of Investment Management reviews registration statements, recommends rules, processes exemptive orders, and issues no-action and interpretive letters relating to variable annuities, variable life

insurance, and other insurance products that are securities. The following describes some of the more significant issues in this area that the staff addressed this past year.

Equity Index Annuities

Equity index annuities, recently introduced by the insurance industry, are contracts that provide for accumulation of the contract owner's payments at a rate of return that is based on changes in an index of equity securities. The insurer also guarantees a minimum return (typically 90 percent of premiums accumulated at a 3 percent annual rate of interest) to the contract owner if the contract is held to maturity. Equity index annuities combine features of traditional insurance products and traditional securities, and the Commission is considering their status under the federal securities laws. The Commission published a concept release requesting information about the structure of equity index annuities, the manner in which they are marketed, and other related matters.¹¹⁶

Disclosure for Retirement Plans

The staff issued a no-action and interpretive letter stating that it would not object if insurers selling variable annuity contracts to group retirement plans treat certain prospectus summaries as communications satisfying the requirements of rule 482 under the Securities Act. This letter was intended to improve disclosure to retirement plan participants investing in variable annuity contracts.¹¹⁷

Allocation of Purchase Payments During Variable Annuity Free Look Period

The staff agreed in a no-action and interpretive letter that variable annuity issuers may require that purchase payments received during the free look period be allocated to a fixed interest rate option. The letter applies to insurance companies required to refund a purchaser's payments upon exercise of a free look right, which permits contract owners to examine a contract and cancel it if they are not satisfied.¹¹⁸

The staff adopted the position that insurance companies may provide the assets of certain separate accounts with protection from third-party claims without registering those separate accounts under the Investment Company Act. The no-action and interpretive letter for this staff position applies to separate accounts that support annuity contracts that pay a rate of return based on a mathematical formula that takes into account changes in a specified market index.¹¹⁹

Significant Investment Advisers Act Developments

Formation of Task Force

In April 1997, the SEC formed a Task Force on Investment Adviser Regulation in the Division of Investment Management. The Task Force is responsible for implementing the provisions of NSMIA relating to investment advisers, overseeing SEC participation in an electronic filing system for investment advisers, and developing a means by which investors can easily obtain information about investment advisers. During the year, the Task Force reviewed existing SEC regulations for investment advisers and developed proposals to improve them.

Rulemaking

As a result of NSMIA, a substantial number of small investment advisers are prohibited from registering with the SEC and generally must register with state securities regulators. To implement the reallocation of regulatory authority mandated by NSMIA, the Commission adopted several new rules, as well as changes to several existing rules and forms.¹²⁰ The most significant of these rules are:

- rule 203A-1, which establishes procedures for advisers to transition between SEC and state registration;
- rule 203A-2, which creates exemptions from the prohibition on registration with the SEC for four categories of investment advisers;

- rule 203A-3, which defines certain terms, including investment adviser representative and place of business; and
- amendments to Form ADV, which require advisers annually to report their eligibility for SEC registration on a new Schedule I.

The Commission also adopted Form ADV-T, a temporary form by which investment advisers indicated whether they were eligible to remain registered with the SEC. Based on these filings, the Commission estimates that approximately 7,500 investment advisers (or 33 percent of all those previously registered) will remain registered with the SEC.

Interpretive and No-Action Letters

Some of the more significant interpretive and no action letters issued by the staff during the year are discussed below.

Performance Advertising by Advisers

The staff took the position that an investment adviser may (1) advertise its performance, using gross-of-fees performance information, as long as net-of-fees performance information is presented with equal prominence and (2) advertise the composite performance of advisory accounts that include one or more mutual fund accounts, without complying with the advertising rules that govern mutual funds, as long as the advertisement does not identify any specific mutual fund.¹²¹

Use of Client Lists in Adviser Advertising

The staff interpreted the advertising rules under the Investment Advisers Act to permit an investment adviser to include in an advertisement a list of some, but not all, of the adviser's clients. The staff concluded that a list that does no more than identify certain clients is not a prohibited testimonial and that an advertisement containing a partial client list is not necessarily false or misleading.¹²²

The staff concluded that a dual registrant (an entity registered both as a broker-dealer and an investment adviser) is not subject to the Investment Advisers Act restrictions on principal and agency cross transactions with its wrap fee clients if the dual registrant:

- provides only generalized investment advice, and
- does not provide investment advice with respect to the specific transactions that it executes for its clients pursuant to an unaffiliated portfolio manager's instructions.¹²³

Significant Public Utility Holding Company Act Developments

Developments in Holding Company Regulation

As a result of the current trend toward industry consolidation, the Commission considered a number of proposed utility combinations. Several of these transactions involved combinations of companies that owned gas properties with companies that owned electric properties. One transaction resulted in the creation of a new registered holding company. Registered holding companies also continued to demonstrate their interest in nonutility activities, both in the United States and abroad. The complexity of applications and requests for interpretive advice continued to increase. The Commission expects these trends to continue in 1998, as the restructuring of the industry continues.

Registered Holding Companies

As of September 30, 1997, there were 16 public utility holding companies registered under the Holding Company Act. The registered systems were comprised of 101 public utility subsidiaries, 46 exempt wholesale generators (EWGs), 51 foreign utility companies (FUCOs), 280 nonutility subsidiaries, and 55 inactive subsidiaries, for a total of 533 companies and systems with utility operations in 28 states. These holding company systems had aggregate assets of approximately \$150 billion and

operating revenues of approximately \$58 billion for the period ended September 30, 1997.

Financing Authorizations

The Commission authorized registered holding company systems to issue approximately \$19.2 billion of securities, a decrease of less than one percent from last year. The total financing authorizations included, for example, \$1.57 billion for investments in enterprises engaged in energy management, an increase of 12 percent over 1996, and \$350 million for investments in EWGs and FUCOs.

Examinations

The staff examined three subsidiary service companies, three parent holding companies, and three special purpose corporations. The examinations focused on the methods of allocating costs of services and goods shared by associate companies, internal controls, cost determination procedures, accounting and billing policies, and quarterly and annual reports of the registered holding company systems. By uncovering misallocated expenses and inefficiencies through the examination process, the Commission's activities resulted in savings to consumers of approximately \$10.6 million.

Applications and Interpretations

The Commission issued various orders under the Holding Company Act. Some of the more significant orders are discussed below.

TUC Holding Company

The Commission authorized the acquisition by TUC Holding Company, a company not previously subject to the Holding Company Act, of (1) Texas Utilities Company, a Texas electric public utility holding company exempt from all provisions of the Holding Company Act except section 9(a)(2) and, through this acquisition, two electric utility subsidiaries operating exclusively in Texas and (2) ENSERCH Corporation, a Texas gas public utility company.¹²⁴ The Commission also granted TUC Holding Company an order under section 3(a)(1) exempting it from all provisions of the Holding Company Act, except section 9(a)(2),

following the acquisition. The Commission determined that a holding company may acquire utility assets that will not, when combined with the acquiring company's utility assets, make up an integrated system, provided that there is *de facto* integration of contiguous utility properties and the holding company will be exempt from registration under section 3 of the Holding Company Act following the acquisition.

New Century Energies, Inc.

The Commission authorized the acquisition by New Century Energies, Inc. (NCE) of (1) Public Service Company of Colorado, a Colorado gas and electric public utility company and a holding company exempt from all provisions of the Holding Company Act except section 9(a)(2) and (2) Southwestern Public Service Company, a New Mexico electric public utility company.¹²⁵ As a result of the transaction, NCE will own three separate integrated public utility systems. In finding that the transaction satisfied the Holding Company Act's standards for having more than one integrated system, the Commission evaluated several factors, including the convergence of the gas and electric industry and the loss of economies associated with separating existing gas and electric operations. NCE has registered as a holding company under section 5 of the Holding Company Act.

Houston Industries Incorporated

The Commission authorized a request by Houston Industries Incorporated (HI), an exempt public utility holding company, and its electric utility subsidiary company, Houston Lighting & Power Company (HLP), for an exemption under section 3(a)(2) from all provisions of the Holding Company Act, except section 9(a)(2), following the consummation of certain transactions.¹²⁶ These transactions involved the merger of HI and HLP, with the surviving entity being renamed Houston Industries Incorporated (Houston), and Houston's acquisition of NorAm Energy Corp. (NorAm) as a new gas utility subsidiary company. The Commission concluded that an exemption for HI under section 3(a)(2) was appropriate, notwithstanding that the ratio of NorAm's operating revenues to HI's would be higher than the same ratio had been in past cases. The Commission noted, among other things, that HI would not be an unregulated entity through

which potential abuses could be undertaken, but instead would be a public utility company subject to state and local regulation.

Central and South West Corporation

The Commission authorized Central and South West Corporation (CSW), a registered holding company, to use financing proceeds to invest in EWGs and FUCOs and to guarantee the obligations of EWGs and FUCOs in amounts that, together with all other such investments, do not exceed 100 percent of CSW's consolidated retained earnings.¹²⁷ The order requires CSW to provide quarterly information to facilitate the Commission's monitoring of CSW's investments in EWGs and FUCOs and their effects on the CSW system.

Consolidated Natural Gas Company

The Commission authorized Consolidated Natural Gas Company, a registered gas holding company, to acquire an interest in two foreign gas pipeline projects.¹²⁸ The Commission determined that section 2(a) of the Gas Related Activities Act of 1990, which modifies section 11(b)(1) of the Holding Company Act, does not exclude a registered holding company from engaging in international activities that fall within the scope of section 2(a).

Rulemaking

Rule 58

The Commission adopted rule 58, which permits registered holding companies, without the need of an application, to invest up to the greater of 15 percent of consolidated capitalization or \$50 million in certain energy-related companies that were previously found to be functionally related to the business of registered public utility systems.¹²⁹ The rule identifies several energy-related businesses, including energy management services, the development of energy conservation and storage technologies, and the production and sale of thermal energy products. Rule 58 codifies prior orders and permits investments of a type that the Commission, in previous

instances, has found to satisfy the standards of the Holding Company Act. Rule 58 thus reduces regulatory burdens and delays. Conforming amendments were made to rules 45 and 52.

Compliance Inspections and Examinations

The Office of Compliance Inspections and Examinations, through examination staff in headquarters and in the SEC's regional and district offices, administers the SEC's nationwide program of compliance inspections and examinations. Inspections and examinations are authorized by the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. Entities subject to this oversight include brokers, dealers, municipal securities dealers, self-regulatory organizations (SROs), transfer agents, clearing agencies, investment companies, and investment advisers.

Key 1997 Results

During the year, the inspections and examinations program focused on areas within firms that appear to pose the greatest danger of compliance risk. To accomplish this, the staff considered a variety of risk factors. Areas covered and inspection techniques used varied from examination to examination because of the diverse population of registrants, differing risk assessment results, changing market conditions and industry developments, the presence or absence of SRO oversight, and, most importantly, variations in the effectiveness of internal compliance procedures.

The staff also enhanced cooperation with foreign, federal, and state regulators, as well as with SROs. The staff conducted coordinated examinations with staff from foreign regulatory organizations and with the U.S. Office of the Comptroller of the Currency. In addition, the staff conducted joint examinations of broker-dealers and investment advisers with state regulators and SROs. The staff also provided extensive training and assistance to state regulators in order to implement the National Securities Markets Improvement Act of 1996 (NSMIA).

Increased cooperation among SEC examiners responsible for different types of regulated entities continues to be one of the office's key accomplishments. For example, when appropriate, SEC examinations of firms with broker-dealer and investment advisory activities were

conducted by multi-disciplinary examination teams. The objective of these joint and cooperative efforts is to increase the efficiency and effectiveness of SEC oversight of dual registrants.

Investment Company and Investment Adviser Inspections

Investment Companies

During the year, examiners inspected 240 investment company complexes with \$1.1 trillion under management, indicating an average frequency of inspection for the 1,030 investment company complexes of once every 4.3 years. The complexes inspected managed 2,377 portfolios, which represented approximately 21.6 percent of the mutual fund and closed-end fund portfolios in existence at the beginning of 1997. The complexes inspected represented a mix of large and smaller complexes.

Serious violations found in 17 examinations warranted referrals for further investigation by enforcement staff. In 76 percent of the examinations resulting in a referral, the staff found misconduct involving fraud. In addition, of all referrals, 70 percent related to the role of the fund's board of directors, 65 percent related to registration and Commission filings, and 59 percent related to books and records.

Investment Advisers

The examination staff continued to target for inspection those advisers posing a higher risk to clients, such as those with actual custody of clients' funds and securities and those with discretionary management authority over clients' cash and securities. Examiners in the regional offices were primarily responsible for inspecting all discretionary managers and non-discretionary managers with \$100 million or more under management.

In total, the examination staff completed 1,609 inspections of investment advisers, including examinations of 1,034 advisers with discretionary management authority. The non-investment company assets managed by the advisers inspected totaled \$1.9 trillion. The 1,034 inspections of discretionary advisers covered 11 percent of all such advisers, indicating an average inspection cycle for discretionary advisers of once every 9.1 years, which increased from once every 7.1 years in

1996. A primary reason for this change is the significant amount of time spent by the inspections staff training state examiners in how to conduct inspections of financial planners. Regional office examiners inspected 133 investment advisers for cause.

Serious violations warranting enforcement referrals were uncovered in 76 of the examinations. In 82 percent of the examinations resulting in a referral, the examination staff found misconduct involving fraud. In addition, of all referrals, 61 percent involved Form ADV or brochure disclosure or delivery, 59 percent related to books and records, and 49 percent related to conflicts of interest.

During 1997, the Investment Advisers Supervision Coordination Act, Title III of NSMIA, went into effect. As a result of the Coordination Act, a substantial number of small investment advisers were removed from federal registration. This reduction in the population subject to SEC oversight has enabled the staff to reconsider and significantly modify its approach to investment adviser examinations. Most importantly, beginning in 1998, the staff expects to examine approximately 20% of all investment advisers each year. At that rate, all advisers will be examined at least once every five years.

The staff also continued initiatives to enhance cooperation with foreign regulators. Specifically, the staff conducted coordinated examinations with staff from the Hong Kong Securities and Futures Commission, the Ontario Securities Commission, and the Investment Management Regulatory Organization in the United Kingdom.

Mutual Fund Administrators

Approximately 51 percent of all mutual fund complexes use third party administrators to perform their accounting and administrative functions. During 1997, examiners inspected 10 administrators as an adjunct to mutual fund oversight. None of the examinations resulted in enforcement referrals.

Variable Insurance Products

In response to the rapid growth in variable insurance product assets and the emergence of new channels of distribution, specialized insurance

product examination teams conducted examinations in this area. These teams identified and examined variable life and annuity contract separate accounts. Special emphasis was placed on examining branch offices of broker-dealers selling these products to determine patterns of sales practice abuses. The teams examined 24 insurance company complexes, representing 20 percent of the insurance sponsors as of the beginning of 1997. This maintains a five-year inspection cycle for insurance sponsors. Deficiency letters were issued in 21 examinations.

In addition, the examination staff, in conjunction with the Division of Enforcement, initiated a limited review of the marketing and sales practices of 14 insurance company sponsors.

Bank Advised Mutual Funds

Based on a November 1995 agreement to better coordinate examinations, staff from the SEC and the Office of the Comptroller of the Currency jointly examined mutual funds advised by national banks, and national banks providing advisory services to mutual funds. Examiners completed one examination started in the prior year and two additional examinations. The examiners reviewed key internal control areas and analyzed portfolio transaction data relating to mutual fund and trust department client trading. In addition, in October 1997, the Director of the Office of Compliance Inspections and Examinations testified before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services of the U.S. House of Representatives concerning the SEC's examination oversight of securities firms affiliated with banks.

Soft Dollar Sweep

The SEC dedicated several months to inspecting the current state of the soft dollar industry. The staff completed examinations of 75 broker-dealers and 280 investment advisers and investment companies. The inspections covered soft dollar arrangements existing during the period January 1, 1996 through October 31, 1996. Of the 355 examinations, 18 were referred to enforcement staff for further investigation.

State Training and Assistance

Through the first half of 1997, the SEC examined 268 investment advisers with less than \$25 million in assets under management in conjunction with state examiners in 29 states. The goal was to train state examiners as they established examination programs for the advisers leaving federal registration and oversight as a result of NSMIA. In addition, the staff provided extensive training assistance to the states. This included staff participation in state-sponsored training programs and on-site training programs in state capitals.

Broker-Dealer and Transfer Agent Examinations

Broker-Dealers

The broker-dealer examination program conducted oversight examinations that tested the quality of SRO examination programs, cause examinations that focused on activity that may have violated the federal securities laws, and surveillance examinations that assessed broker-dealer compliance and industry practices and trends. The staff began a complete overhaul of its examination modules and procedures to reflect current industry trends, rule amendments and new product developments. The staff also continued a project to update the office's computerized tracking system for broker-dealer examinations.

The examination staff completed 312 oversight and 347 cause and surveillance examinations of broker-dealers, government securities broker-dealers, and municipal securities dealers. While the examination program attempts to maintain a balance between oversight and cause examinations, the staff conducted more cause and surveillance examinations in 1997 in order to respond to complaints by investors and indications of financial and operational problems experienced by broker-dealers. In addition, surveillance examinations were conducted to review industry practices and broker-dealer compliance when oversight examinations were not appropriate. The staff completed 110 examinations of broker-dealers' branch offices, emphasizing the adequacy of supervision over the activities of salespersons in branch offices.

Serious violations were uncovered in 136 examinations warranting referrals for further investigation by enforcement staff. Findings in an additional 48 examinations were referred to SROs for appropriate action. In 30 percent of the examinations resulting in a referral, the examination staff found misconduct involving fraud. The most common violations and deficiencies found were recordkeeping deficiencies, misrepresentations and unsuitable recommendations to customers, and unauthorized trading in customers' accounts.

The broker-dealer examination program devoted significant attention to abuses in the underwriting, trading, and selling of low-priced, speculative securities, often referred to as microcap securities. Examinations also emphasized municipal securities underwriters' compliance with Municipal Securities Rulemaking Board (MSRB) rule G-36, supervision of registered representatives classified as independent contractors and operating in franchised branch offices, the adequacy of broker-dealers' internal controls and risk management, and soft dollar practices (as noted above). The staff also began a review of clearing firm policies and procedures with respect to the activities of introducing firms.

Broker-dealer examination staff also continued initiatives to enhance cooperation with foreign, federal, and state regulators, as well as with SROs. Examiners are working with SRO and state regulators to implement the objectives of the Memorandum of Understanding to achieve maximum coordination of regulatory programs. The examination staff also began considering opportunities to coordinate examinations of broker-dealers, clearing agencies, and transfer agents with bank regulators.

Transfer Agents and Clearing Agencies

In 1997, the staff conducted 170 examinations of registered transfer agents, which included 14 federally regulated banks. The program resulted in 115 deficiency letters, 13 cancellations or withdrawals of registrations, 12 referrals to enforcement staff, 12 referrals to bank regulators, and 2 staff conferences with registrants. In addition, the staff conducted an examination sweep of registered transfer agents that act as recordkeepers for retirement plans. The staff also conducted four inspections of clearing agencies.

Self-Regulatory Organization Inspections

The staff completed 36 inspections of various SRO regulatory programs during the year. The staff inspected at least one program at each SRO subject to the Commission's oversight: the American Stock Exchange, the Boston Stock Exchange, the Chicago Board Options Exchange, the Chicago Stock Exchange, the Cincinnati Stock Exchange, the National Association of Securities Dealers (NASD), the New York Stock Exchange, the Pacific Exchange, the Philadelphia Stock Exchange, and the MSRB. On a routine basis, SROs were inspected in the following SRO programs:

- arbitration programs;
- listing, maintenance, and unlisted trading privileges programs;
- financial/operational and sales practice examination programs;
- market surveillance, investigatory, and disciplinary programs; and
- customer communication review programs.

The staff also conducted routine inspections of the regulatory programs administered by the NASD's district offices. These inspections included reviews of NASD district offices' examinations, financial surveillance, and formal disciplinary programs. The staff also reviewed the district offices' investigations of customer complaints and terminations of registered representatives for cause.

Self-Regulatory Organization Final Disciplinary Actions

Section 19(d)(1) of the Securities Exchange Act of 1934 and rule 19d-1 thereunder require all SROs to file reports with the Commission of all final disciplinary actions. In 1997, reports of 1,162 final disciplinary actions were filed with the SEC, as reflected in the following table.

Self-Regulatory Organization
Reports of Final Disciplinary Action

<u>Self-Regulatory Organization</u>	<u>Number of Actions</u>
American Stock Exchange	16
Boston Stock Exchange	0
Chicago Board Options Exchange	60
Chicago Stock Exchange	5
Cincinnati Stock Exchange	0
Government Securities Clearing Corporation	2
National Association of Securities Dealers	893
National Securities Clearing Corporation	0
New York Stock Exchange	179
Options Clearing Corporation	0
Philadelphia Stock Exchange	4
Pacific Exchange	<u>3</u>
 Total Disciplinary Actions	 1,162

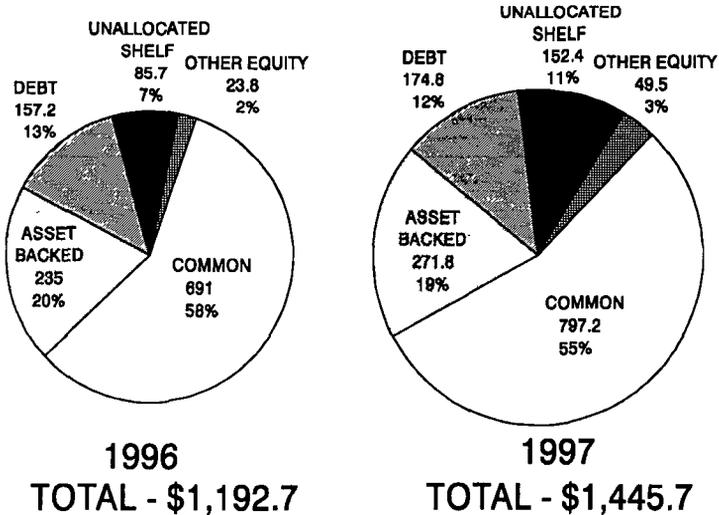
Full Disclosure System

The full disclosure system is administered by the Division of Corporation Finance. The system is designed to provide investors with material information, foster investor confidence, contribute to the maintenance of fair and orderly markets, facilitate capital formation, and inhibit fraud in the public offering, trading, voting, and tendering of securities.

Key 1997 Results

A record \$1.4 trillion in securities were filed for registration during the year, a 20 percent increase over the \$1.2 trillion in 1996. Common stock offerings of almost \$800 billion filed for registration in 1997 (compared to \$691 billion in 1996) reflected an increase in overall market activity, including merger transactions. Offerings filed by first time registrants (IPOs), however, totaled approximately \$166 billion, almost 11 percent less than the level in 1996 (approximately \$185.5 billion).

REGISTRATION STATEMENTS FILED DOLLAR VALUE (\$BILLIONS)



Foreign companies' participation in the United States public market continued to show strong growth in 1997. During the year, nearly 200 foreign companies (a record) from 37 countries entered the United States public markets for the first time. At year-end, there were nearly 1,000 foreign companies from 51 countries filing reports with the Commission. The over \$100 billion registered in 1997 by foreign companies for public offerings set a new record for an amount registered in a single year.

The Commission continued its efforts to relieve regulatory burdens and simplify requirements relating to capital formation. This included proposing or adopting a number of changes recommended by the 1996 Task Force on Disclosure Simplification. The broad reexamination of the regulatory framework for the offer and sale of securities under the Securities Act of 1933 (Securities Act) is continuing.

Review of Filings

In 1997, the Division of Corporation Finance set new records on the number of filings with full year financial statements and the number of issuers reviewed. Almost 27 percent of the reporting issuers were reviewed, along with 1,255 Securities Act IPOs, 349 Securities Exchange Act of 1934 (Exchange Act) new issuer registration statements, and 111 Regulation A exemptive filings. By the beginning of 1997, responsibility for the review of all regional IPO small business filings and Regulation A exemptive filings had been transferred from the regional offices to the Division. These record results were accomplished without replacing the regional office review staff, who were reassigned to other Commission activities. These accomplishments are attributable to many factors, including:

- the efficiencies and flexibility gained through reassignments in the Division;
- more frequent and improved staff training; and
- improved access to computerized research tools and disclosure documents.

The following table summarizes the principal filings reviewed during the last five years. The levels of reviews of new issuer filings, third party tender offers, contested solicitations, and going private transactions, all of which are subject to review, reflect the increases and decreases in the number of filings received.

Full Disclosure Reviews

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
Reporting Issuer Reviews <u>a/</u>	3,531	3,400	3,930	3,210	3,513
New Issuer Reviews <u>b/</u>	1,214 <u>c/</u>	1,599	1,150	1,658	1,604

Major Filing Reviews

Securities Act Filings:

Home Office

IPOs <u>d/</u>	877	1,167	805	1,267	1,255
Repeat Issuers	924	863	815	769	723
P/E Amdts. <u>e/</u>	115	114	100	56	41
Regulation A	0	0	0	0	111

Regions d/

IPOs	189	217	145	145	0
P/E Amdts. <u>e/</u>	105	90	115	84	0
Regulation A	89	100	69	77	0

Exchange Act Initial

Registrations	148	215	200	246	349
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Annual Report Reviews:

Full	1,466	1,085	1,345	790	1,149
Full Financial	1,155	1,405	1,585	933	1,208
Special <u>f/</u>	360	455	585	656	800
Tender Offers (14D-1)	56	82	140	165	234
Going Private Schedules	61	75	77	100	94
Contested Proxy	35	42	59	62	83

Proxy Statements:

Merger/Going Private	149	163	225	261	233
Others w/Financials	149	180	205	199	238

a/Includes companies subject to Exchange Act reporting whose financial statements were reviewed during the year.

b/Includes reviews of Securities Act or Exchange Act registration statements of non-Exchange Act reporting companies. Excludes reviews of Regulation A filers.

c/Revised.

d/Reviews of regional office small business filings were transferred to the home office during 1996.

e/Includes only post-effective amendments with new financial statements.

f/Includes annual reports reviewed in connection with the review of other filings that incorporated financial statements by reference. Special reviews in years before 1997 includes some reviews where the referenced proxy statement contained financial statements.

Rulemaking, Interpretive, and Related Matters

Phase II Recommendations of Task Force on Disclosure Simplification

The Commission continued its consideration and implementation of the recommendations of the 1996 Task Force on Disclosure Simplification by adopting another set of changes to eliminate more rules and forms and to simplify others.¹³⁰ Among other things, the Commission:

- simplified the Exchange Act registration process;
- exempted American Depositary Receipts from Exchange Act registration when the ADRs are listed on a national securities exchange and registered under the Securities Act;
- eased the rules so that issuers may now switch to a shorter Securities Act registration form at the time any amendment is filed if the issuers have become eligible to use the shorter form; and
- provided automatic effectiveness upon filing of post-effective amendments to Securities Act registration statements filed solely to add exhibits.

Plain English

The Commission proposed rule changes to improve the readability of prospectuses by requiring issuers to write portions of their documents in plain English.¹³¹ The proposed rules would apply to both corporate issuers and mutual funds. They would require, among other things, that public companies use plain English principles in the organization, language and structure of the cover pages, summary, and risk factors section of the prospectus. These principles include the use of the active voice, short sentences, everyday words, tabular presentation, and the avoidance of legal jargon and multiple negatives. The proposed rules encourage issuers to apply these principles throughout the prospectus, and to use pictures, logos, charts, graphs, or other design elements to convey information in a more readable and understandable manner.

Expansion of Short Form Registration to Include Companies with Non-voting Equity

The Commission adopted amendments to expand the availability of the short Forms S-3 and F-3 under the Securities Act.¹³² The amendments changed the test for eligibility to include non-voting as well as voting common equity in the computation of the required \$75 million aggregate market value of common equity held by non-affiliates of the registrant. The Commission also adopted conforming amendments to other forms and rules.

Regulation S

The Commission published for comment a proposal to amend Regulation S, the Securities Act safe harbor for offshore sales of securities, to address abusive practices.¹³³ The amendments would affect unregistered offshore offerings of common stock and other types of equity securities (including convertible securities) by United States publicly traded companies. The proposals also would apply to unregistered offerings by foreign companies where the principal market (more than 50 percent of worldwide trading) for their equity securities is in the United States. These amendments are designed to eliminate the abusive practices mainly by providing a longer restricted period and adding a holding period.

Offshore Press Conferences

The Commission adopted two new safe harbors under the Securities Act and the Williams Act that are designed to eliminate perceived grounds for the exclusion of any journalist from access to offshore press activities.¹³⁴ In some foreign countries, it is common practice for companies to conduct press conferences, issue press releases, and meet with members of the press when offering securities or conducting a tender offer. United States journalists, and journalists for foreign publications with a significant United States circulation, have had difficulty obtaining direct access to these offshore press activities because of uncertainty about whether this type of access violates the United States federal securities laws. The new safe harbors are intended to reflect existing offering practices in certain foreign countries and level the playing field between

United States and foreign journalists with respect to accessing these press activities.

Delayed Pricing for Offerings by Smaller Companies

The Commission proposed an amendment to Securities Act rule 430A to permit certain smaller companies, including small business issuers, to delay pricing of registered securities offerings after clearance of the registration statement until the company desires to sell the securities.¹³⁵ The increased marketplace flexibility provided by the proposed rules is intended to result in smaller issuers raising more capital through the public markets rather than through exempt offerings conducted in the domestic and offshore markets. Use of the proposed procedures would be conditioned on the availability of adequate and current disclosure in order that investors may make informed investment decisions at the time the securities are offered and sold.

Derivatives and Market Risk Disclosure

The Commission adopted amendments to Regulation S-K, Regulation S-X, and various forms to make information about derivative financial instruments and certain derivative commodity instruments more useful to readers.¹³⁶ The rules, which do not apply to small business issuers, have been revised to:

- require enhanced descriptions of accounting policies for derivatives in the footnotes to the financial statements;
- require disclosure outside the financial statements of quantitative and qualitative information about market risk from derivative financial instruments, certain derivative commodity instruments, and other financial instruments; and
- extend the statutory safe harbor for forward-looking statements to the quantitative and qualitative information without regard to whether the company otherwise would be eligible for the safe harbor.

Reduction of Holding Period Requirements and Streamlining Rule 144 and 145

The Commission adopted amendments to the rule 144 holding period requirements applicable to privately placed and other restricted securities.¹³⁷ The amendments permit limited resales of restricted securities after a one-year holding period (instead of the previous two-year period) and unlimited resales by non-affiliates after a two-year holding period (instead of the previous three-year period). Parallel changes were made to the resale provisions of Securities Act rule 145 covering securities received in certain mergers and other business combination transactions.

The Commission also proposed additional changes to make rule 144 easier to understand and apply.¹³⁸ The proposals reorganize and rework the text of the rule in a more succinct and straightforward fashion. In addition, the rules would be simplified by:

- providing a distinct exclusion from the rule 144 definition of affiliate;
- eliminating the manner of sale requirements;
- increasing the threshold requirements for filing form 144 to reflect inflation since their initial adoption; and
- amending Securities Act rule 145 to eliminate the resale limitations that are based on a presumptive underwriter approach.

At the same time, the Commission solicited comment on the need to:

- further revise the rule 144 holding periods;
- revise the volume limitation standard by eliminating the two trading volume tests; and
- address the application of the Securities Act to hedging activities.

Shareholder Proposals

The Commission proposed a package of reforms, including amendments to rule 14a-8, the shareholder proposal rule, to address a range of concerns raised by shareholder and corporate participants in the shareholder proposal process.¹³⁹ The proposed changes include an override mechanism to make it easier for shareholders to include a broader range of proposals in companies' proxy materials. The amendments also would provide companies with clearer ground rules and more flexibility to exclude proposals that failed to attract significant shareholder support in prior years. In addition, the Commission proposed to re-write the rule in an easy to understand, question and answer format.

Definition of "Prepared by or On Behalf of the Issuer" for Purposes of Determining if an Offering Document is Subject to State Regulation

The National Securities Markets Improvement Act of 1996 revised section 18 of the Securities Act to reallocate regulatory responsibility relating to securities offerings between the federal and state governments based on the nature of the security or offering. Among other things, the revised statute prevents states from directly or indirectly prohibiting, limiting, or imposing any conditions on the use of any offering document for a covered security if the offering document is prepared by or on behalf of the issuer. Pursuant to a statutory mandate, the Commission adopted new rule 146 to provide a definition of the term "prepared by or on behalf of the issuer."¹⁴⁰ It provides that if an issuer or an agent or representative authorizes an offering document's production and approves the document before its use, it is prepared by or on behalf of the issuer.

EDGAR Rule Revisions

The Commission adopted a number of minor and technical amendments to its rules governing electronic filing, including the elimination of the transition rules used during the phase-in period for the Electronic Data Gathering, Analysis and Retrieval (EDGAR) system.¹⁴¹ The amendments codify several staff interpretations, add new rules, and revise other rules to clarify issuers' electronic filing obligations.

Amendments to Forms and Schedules to Eliminate Provisions Requiring Disclosure of Social Security Numbers

The Commission adopted revisions to its forms and schedules to eliminate the need for individuals to provide their social security numbers on documents filed with the SEC.¹⁴² The Commission took this action in response to increasing concerns about the improper use of social security numbers for access to otherwise non-public information.

Staff Legal Bulletins

The staff began issuing staff legal bulletins during the year to provide advice to the public on frequently recurring issues. The bulletins contain Division views on various topics, including:

- the requirements issuers must satisfy when requesting confidential treatment for required information;
- periodic reporting requirements for issuers in reorganization or liquidation;
- the section 3(a)(10) exemption from Securities Act registration available when a court or certain state regulators make a fairness finding;
- spinoffs, where a parent company distributes shares of its subsidiary to its shareholders; and
- disclosure obligations arising from year 2000 conversion.

The bulletins are publicly available and are posted on the SEC's internet website.

Conferences

SEC Government-Business Forum on Small Business Capital Formation

The sixteenth annual SEC Government-Business Forum on Small Business Capital Formation was held in San Francisco, California on September 18-19, 1997. Approximately 150 small business representatives, accountants, attorneys, and government officials attended the forum. Numerous recommendations were formulated with a view to eliminating unnecessary governmental impediments to small businesses' ability to raise capital. A final report will be provided to interested persons, including the Congress and regulatory agencies, setting forth a list of recommendations for legislative and regulatory changes approved by the forum participants.

SEC/NASAA Conference Under Section 19(c) of the Securities Act.

The fourteenth annual federal/state uniformity conference was held in Washington, D.C. on April 28, 1997. Approximately 60 Commission officials met with approximately 60 representatives of the North American Securities Administrators Association to discuss methods of achieving greater uniformity in federal and state securities matters. After the conference, a final report summarizing the discussions was prepared and distributed to interested persons and participants.

Small Business Town Hall Meetings

In September 1996, the Commission began holding local town hall meetings for small businesses, where entrepreneurs could meet with SEC and other federal officials to raise specific concerns and learn about the available governmental programs and opportunities for small companies under existing laws and regulations. During the year, a meeting was held in Richmond, Virginia.

Accounting and Auditing Matters

The Chief Accountant is the principal advisor to the Commission on accounting and auditing matters arising from the administration of the various securities laws. The primary Commission activities designed to achieve compliance with the accounting and financial disclosure requirements of the federal securities laws include:

- *rulemaking and interpretation that supplements private-sector accounting standards and implements financial disclosure requirements;*
- *review and comment process for agency filings directed to improving disclosures in filings, identifying emerging accounting issues (which may result in rulemaking or private sector standard-setting), and identifying problems that may warrant enforcement actions;*
- *enforcement actions that impose sanctions and serve to deter improper financial reporting by enhancing the care with which registrants and their accountants analyze accounting issues; and*
- *oversight of, and participation in, private sector efforts, principally by the Financial Accounting Standards Board (FASB), the American Institute of Certified Public Accountants (AICPA), the Independence Standards Board (ISB), and various international accounting bodies, which establish accounting and auditing standards and independence criteria for accountants designed to improve financial accounting and reporting and the quality of audit practice, including standards applicable to multinational offerings.*

Key 1997 Results

The Commission adopted rules to require additional disclosures concerning derivatives and other financial instruments. The Commission also continued its involvement in initiatives directed toward reducing the disparities that currently exist between different countries' accounting and

auditing standards. The Commission and the AICPA jointly announced the formation of a new private sector body to establish independence standards applicable to auditors of public companies.

Accounting-Related Rules and Interpretations

The agency's accounting-related rules and interpretations supplement private-sector accounting standards, implement financial disclosure requirements, and establish independence criteria for accountants. The agency's principal accounting requirements are embodied in Regulation S-X, which governs the form and content of financial statements filed with the SEC.

During the year, the Commission adopted rules to require additional disclosures concerning derivatives and other financial instruments.¹⁴³ The required disclosures are designed to help investors better assess the market risks of registrants involved with these instruments and better understand how those risks are managed. The rules clarify and expand existing requirements for financial statement footnote disclosures about accounting policies for derivatives and require disclosures, outside the financial statements, of qualitative and quantitative information about the market risks inherent in derivatives and other financial instruments.

In July 1997, the staff issued an interpretive release, in a question and answer format, to provide guidance to registrants in implementing the market risk disclosures called for under the new rules.¹⁴⁴

Oversight of Private-Sector Standard Setting

Financial Accounting Standards Board

The SEC monitors the structure, activity, and decisions of the private-sector standard-setting organizations, which include the FASB. The Commission and its staff oversee the FASB's ongoing efforts to improve the standard-setting process, including the need to respond to various regulatory, legislative, and business changes in a timely and appropriate manner.

During 1997, the FASB completed its joint undertaking with the Accounting Standards Board of the Canadian Institute of Chartered Accountants to revisit the current reporting requirements under Statement of Financial Accounting Standards No. 14, *Financial Reporting for Segments of a Business Enterprise*. A final standard was issued to establish common standards on segment disclosures.¹⁴⁵

In a coordinated effort with the International Accounting Standards Committee (IASC), the FASB issued another final standard to revise the computation and presentation of earnings per share.¹⁴⁶ The approach taken in the FASB standard generally is consistent with the approach set forth in the IASC standard on this topic. In a related action, the FASB adopted a final standard to require certain disclosures about capital structure.¹⁴⁷

The FASB continued its efforts on its long-term project to address financial instruments and off-balance sheet financing issues. During the year, the FASB deliberated to improve the current accounting for derivative instruments and hedging. The FASB issued a draft standard that would require all derivatives to be recognized as assets and liabilities and measured at fair value.¹⁴⁸ Changes in fair value would be recognized in earnings unless the instruments are designated as hedges and qualify for hedge accounting. The FASB modified various aspects of its proposed approach to qualifying for hedge accounting treatment based on various comments. The comment period on the draft final standard ended on October 14, 1997; a final standard is expected in early 1998.

In a related action, the FASB adopted standards for reporting and displaying comprehensive income and its components (revenues, expenses, gains, and losses).¹⁴⁹

During the year, the FASB began deliberations to reconsider the accounting for business combinations presently encompassed by Accounting Principles Board Opinion Nos. 16, *Business Combinations*, and 17, *Intangible Assets*. Among the issues being considered is whether the existence of two separate and distinct methods of accounting for business combinations should continue. The FASB published a special report, *Issues Associated with the FASB Project on Business Combinations*, during 1997 to solicit comment.

The FASB issued an exposure draft to revise the disclosure requirements concerning an employer's obligations for pensions and other post-employment benefits.¹⁵⁰ The objective is to examine the disclosure requirements of existing FASB standards on employers' accounting for pensions and other post-employment benefits and determine how such requirements can be simplified without losing useful information. The impetus for these revisions stems from a study conducted by a working group of the Financial Accounting Standards Advisory Committee (FASAC) recommending that the FASB take an inductive approach to disclosure effectiveness, beginning with an evaluation of pension disclosure requirements.

The FASB's Emerging Issues Task Force (EITF) continued to identify and resolve accounting issues. The EITF reached consensus on a number of issues, including questions relating to accounting for financial instruments, business combinations, consolidation policies, and accounting for the effects of competition on rate-regulated entities. The objective of the EITF process is to narrow divergent reporting practices of public companies within the context of existing authoritative accounting standards.

American Institute of Certified Public Accountants

The SEC oversaw various processes and activities conducted through the AICPA. These included (1) the Auditing Standards Board (ASB), which establishes generally accepted auditing standards; (2) the SEC Practice Section (SECPS), which seeks to improve the quality of audit practice by member accounting firms that audit financial statements of public companies; and (3) the Accounting Standards Executive Committee (AcSEC), which provides guidance through its issuance of statements of position and practice bulletins.

ASB. The staff oversaw efforts of the ASB to enhance the effectiveness of the audit process. During 1997, the ASB issued a Statement on Auditing Standards to clarify an auditor's existing responsibility to plan and perform an audit to search for fraud.¹⁵¹ The ASB also issued a proposed standard to provide guidance to auditors when performing an attestation engagement with respect to management's

discussion and analysis presentations of SEC registrants.¹⁵² The ASB issued a series of annual Audit Risk Alerts to provide auditors with an overview of recent economic, professional, and regulatory developments that may affect 1997 year-end audits.

SECPS. Two programs administered by the SECPS are designed to ensure that the financial statements of SEC registrants are audited by accounting firms that have adequate quality control systems. A peer review of member firms by other accountants is required every three years, and the Quality Control Inquiry Committee (QCIC) reviews on a timely basis the quality control implications of litigation against member firms that involves public company clients. The staff coordinates its oversight of these two programs with the oversight activities of the Public Oversight Board (POB). The POB is independent of the AICPA except for funding.

The Commission exercises oversight of the SECPS through frequent contacts with the POB and members of the executive, SEC regulations, peer review, and quality control inquiry committees of the SECPS. During the year, the Office of the Chief Accountant selected a random sample of peer reviews and evaluated selected working papers of the peer reviewers and the related POB files. The staff also reviewed closed case summaries prepared by the QCIC and related POB oversight files are also reviewed by the staff. These reviews and discussions with the POB and QCIC staffs provided SEC staff with information to assess the QCIC process. As in prior years, this oversight showed that the peer review process contributes significantly to improving the quality control systems of member firms, and that the QCIC process is an effective supplement to the peer review process.

AcSEC. The AcSEC issued a statement of position to provide guidance on revenue recognition from software transactions.¹⁵³ The AcSEC also continued to address accounting issues involving specialized industries, dedicating resources in such areas as accounting for certain computer software costs, motion picture accounting, and insurance accounting.

ISB. During the year, the SEC and the AICPA jointly announced the formation of a new private sector body, the Independence Standards Board. The ISB, with Commission oversight, is expected to establish

independence standards applicable to audits of public entities. The ISB's standards are expected to serve the public interest by promoting investors' confidence in the audit process and in the securities markets. The ISB consists of eight members. Four are public members who are not affiliated with auditing firms, three are managing partners in auditing firms, and one is the president of the AICPA. The Chairman of the ISB is required to be one of the four public members. ISB standard-setting meetings will be open to the public, draft ISB standards will be published for public comment, and the SEC will oversee the ISB process.

International Accounting and Auditing Standards

The requirements for listing or offering of securities vary from country to country. Issuers wishing to access capital markets in more than one country may have to comply with requirements that differ in many respects, including accounting principles to be used to prepare financial statements. These differing requirements can increase compliance costs for registrants and create inefficiencies in attempts to access multiple capital markets. As a result, securities regulators around the world have been working on several projects to reduce differences in reporting and disclosure requirements.

The International Organization of Securities Commissions (IOSCO), of which the SEC is a member, has been working with the International Accounting Standards Committee (IASC) for several years on a project to develop a core set of accounting standards for financial reporting in cross-border securities offerings. A brief chronology of the efforts related to this project follows:

- In 1994, IOSCO reviewed the existing IASC standards and identified standards that need to be improved, including issues deemed critical to the success of the project by some countries.
- In July 1995, IOSCO and the IASC agreed on a core standards work plan, and in April 1996, the IASC announced an intention to complete that plan by March 1998. Completion of a comprehensive set of core standards that is acceptable to IOSCO

will allow IOSCO's Technical Committee to recommend acceptance of IASC standards for cross-border capital raising and listing purposes.

- In April 1996, the Commission released a statement in support of the efforts of IOSCO and the IASC. That statement indicated that, if the IASC successfully completes the agreed-upon work plan, the Commission will consider accepting the core standards in securities offerings by cross-border issuers in the United States if those standards satisfy the criteria for acceptance described by the Commission in that statement. The Commission believes the work of IOSCO is an important effort to improve capital market reporting and, therefore, capital market efficiency around the world. Because of the importance of this issue, the Commission continued to devote significant resources to this project.
- During 1997, the IASC finalized standards for five of the twelve projects on the core standards work program,¹⁵⁴ and exposure drafts of proposed standards have been published for six of the seven remaining areas.¹⁵⁵ The IASC also agreed to work with a group of national standard setters to develop a standard on financial instruments, and the IASC began to develop an interim solution for financial instruments with a goal of completing its core standards work program in 1998.

Finally, in October 1997 the Commission submitted a report to Congress on the development of international accounting standards and the outlook for successful completion of a set of international standards that would be acceptable to the Commission for offerings and listings by foreign corporations in United States markets.¹⁵⁶ This report was submitted pursuant to section 509(5) of the National Securities Markets Improvement Act of 1996.

Other Litigation and Legal Activities

The Office of General Counsel provides legal services to the Commission concerning its law enforcement, regulatory, legislative, and adjudicatory activities. The office represents the Commission in appeals in enforcement cases and provides technical assistance on legislative initiatives.

Key 1997 Results

In a major victory for the government, the Supreme Court, in *United States v. O'Hagan*,¹⁵⁷ upheld the misappropriation theory of insider trading liability. The Commission drafted substantial parts of the government's brief in the case. The SEC testified and the staff provided technical and other assistance with respect to the National Securities Markets Improvement Act of 1996 (NSMIA), which was enacted in October 1996.

Significant Litigation Developments

Insider Trading

In *United States v. O'Hagan*, one of the most important victories for the government in a securities enforcement case, the Supreme Court upheld the validity of the misappropriation theory of insider trading liability. Under this theory, it is a form of securities fraud to trade in securities on material non-public information that has been deceptively misappropriated. The Supreme Court also upheld the validity of Commission rule 14e-3, which bans trading while in possession of certain material non-public information in connection with a tender offer. The Commission worked closely with the U.S. Solicitor General in litigating this criminal insider trading case.

In the pending appeal in *SEC v. Adler*,¹⁵⁸ the Commission argued that a corporate insider who trades in his company's securities while in possession of inside information violates the securities laws, whether or

not he uses that information in his trading. In the pending appeal in *United States v. Smith*,¹⁵⁹ the Commission filed a friend of the court brief taking the same position as in *Adler*.

The Shingle Theory and Excessive Markups

In the pending appeal in *Banca Cremi v. Alex. Brown & Sons, Inc.*,¹⁶⁰ the Commission filed friend of the court briefs in a private action alleging fraud based on excessive undisclosed markups on purchases of collateralized mortgage obligation bonds. The Commission argued that the duty to disclose an excessive markup derives from the longstanding “shingle theory,” under which a broker-dealer makes an implied representation of fair dealing with customers. The Commission also argued that its prior releases and decisions and court decisions give adequate guidance on excessive markups, including markups on debt securities.

“In Connection With” Requirement

In *Levitin v. PaineWebber, Inc.*,¹⁶¹ and *Bissell v. Merrill Lynch & Co., Inc.*,¹⁶² the Commission filed friend of the court briefs in appeals to the Second Circuit of district court decisions restricting the scope of the “in connection with the purchase or sale of a security” clause of section 10(b) to misrepresentations or omissions that pertain to a security. The Commission argued that in using the clause Congress intended, contrary to the conclusion of the district court, that section 10(b) covers all deception that could reasonably be expected to influence a securities transaction including, for example, (1) misrepresentations about the qualifications of a securities salesperson, (2) the risks of margin trading, (3) the terms of a margin account, and (4) a brokerage firm’s solvency. These cases are awaiting decisions.

Securities Fraud and Conversion of Savings and Loan From Mutual to Stock Ownership

In *Dougherty v. Carver Federal Savings Bank*,¹⁶³ the Court of Appeals for the Second Circuit, essentially for the reasons urged by the Commission in a friend of the court brief, reversed a district court decision dismissing a complaint alleging fraud in an initial public offering of stock

in a federally-chartered savings bank. The offering was made pursuant to a plan of conversion from mutual to stock ownership approved by the Office of Thrift Supervision (OTS). The court of appeals agreed with the Commission that the OTS's approval of the conversion did not preclude a private action under the antifraud provisions of the securities laws for misrepresentations or omissions alleged to have occurred in the sale of the securities to investors.

Transnational Subject-Matter Jurisdiction

In *Europe and Overseas Commodity Traders, S.A. v. Banque Paribas London*,¹⁶⁴ the Commission filed a friend of the court brief, arguing that the federal courts have subject-matter jurisdiction over antifraud and registration claims when misrepresentations from abroad are directed by telephone to a person temporarily in the United States, in order to induce him to buy securities. The case is awaiting decision.

Joint and Several Liability for Disgorgement

In *SEC v. Hughes Capital Corp.*,¹⁶⁵ the Third Circuit held that the burden is on the party challenging joint and several liability for disgorgement to establish the manner in which liability should be apportioned.

Litigation under the Private Securities Litigation Reform Act of 1995

The Commission filed a friend of the court brief in the District Court for the Northern District of California in *In re Silicon Graphics, Inc. Sec. Litig.*¹⁶⁶ The Commission argued that the district court had erred in initially holding that the new pleading standard in the Private Securities Litigation Reform Act of 1995 (Reform Act) eliminated recklessness as a basis for liability under section 10(b) and rule 10b-5. The district court, in a late opinion, essentially agreed with the Commission's position and the case is pending on appeal in the Court of Appeals for the Ninth Circuit.¹⁶⁷ The Commission filed a second friend of the court brief involving the pleading standard of the Reform Act in the Court of Appeals for the Ninth Circuit in the pending appeal in *Zeid v. Kimberley*.¹⁶⁸ In that brief the Commission argued that the pleading standard in the Reform Act did not eliminate recklessness as a standard for liability and that courts should rely

upon the Second Circuit tests in interpreting the pleading standard of the Reform Act.

Forum Selection and Choice of Law Agreements

In two cases in which investors are suing Lloyd's of London, the Commission appeared as friend of the court to argue that contractual forum selection and choice of law clauses, which, taken together, require investors to bring claims arising from their investments in British courts and provide that British law governs resolution of the disputes, violate the antiwaiver provisions of the federal securities laws, because British courts will not entertain claims under those laws. In *Richards v. Lloyd's of London*,¹⁶⁹ a panel of the Court of Appeals for the Ninth Circuit agreed and invalidated the choice clauses. Rehearing by the full court was granted and the case is pending. In *Haynsworth v. The Corporation*,¹⁷⁰ the Court of Appeals for the Fifth Circuit upheld the choice clauses.

Requests for Access to Commission Records

The Commission received 96 subpoenas for documents and testimony. In some of these cases, the Commission declined to produce the requested documents or testimony because the information sought was privileged. The Commission's assertions of privilege were upheld in every instance when the party issuing the subpoena challenged the assertion in court.

The Commission received 2,880 requests under the Freedom of Information Act (FOIA) for access to agency records. There were 55 appeals to the Office of General Counsel from initial denials by the FOIA Officer. Three actions were brought in federal courts challenging Commission decisions to withhold, pursuant to FOIA Exemption 8, documents related to Commission examinations. Exemption 8 protects from disclosure matters that are "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions." The courts upheld in each of the cases the Commission's decision to withhold the requested materials.

Actions Against the Commission

In *Solv-Ex Corp. v. SEC*,¹⁷¹ the bankruptcy court preliminarily enjoined the Commission from disclosing any of Solv-Ex's purported confidential proprietary information in connection with the Commission's ongoing investigation involving Solv-Ex. Among the issues under investigation is whether Solv-Ex made material misstatements regarding its technological processes. The court denied Solv-Ex's requests for notice of and the right to attend the Commission's investigative testimony. The Commission moved to dismiss the complaint or, alternatively, for summary judgment on a number of grounds, including that Solv-Ex waived any right it may have had to confidentiality for its alleged proprietary information by providing that information to the Commission without an agreement from the Commission to keep it confidential. The Commission also appealed the preliminary injunction to the district court and sought a stay from that court. Those motions are pending.

Challenges to NASD Arbitration Proceedings

Two lawsuits were filed against the Commission regarding NASD arbitration proceedings. In *Honn v. NASD*,¹⁷² a registered representative alleged that the NASD did not provide a fair forum for a proceeding against his former employer and that the Court should require the Commission to oversee that proceeding. In *Desiderio v. NASD*,¹⁷³ the plaintiff alleged that the arbitration clause of Form U-4 was improper and that the Commission exceeded its statutory authority in permitting the NASD to include the clause. The Commission moved to dismiss both lawsuits for lack of jurisdiction and failure to state a claim. Those motions are pending.

Actions Under the Right to Financial Privacy Act

In 1997, 19 actions were filed against the Commission in federal district courts pursuant to the Right to Financial Privacy Act (RFPA) seeking to quash Commission subpoenas to financial institutions for bank account records. In each of the cases decided, the court enforced the subpoena, finding that the Commission had established that the subpoenaed records were relevant to a law enforcement inquiry and that the staff had complied with the procedural requirements of the RFPA.

Appeals From Subpoena Enforcement Actions

The Court of Appeals for the Second Circuit affirmed two district court orders enforcing Commission administrative subpoenas. In *Wells v. SEC*,¹⁷⁴ the court enforced a subpoena order of testimony holding, among other things, that the Commission's omnibus formal order of investigation authorized issuance of the subpoena despite the fact that the order did not name the entity being investigated, predated the establishment of the entity being investigated, and directed the staff to investigate an entire industry. In *SEC v. Waltzer & Associates*,¹⁷⁵ the court enforced a subpoena seeking insurance-related documents from a registered investment adviser. The court rejected the investment adviser's arguments that production of the documents would violate the McCarran-Ferguson Act, which vests primary regulatory authority over the sale of insurance products to the states.

Significant Adjudication Developments

The staff submitted to the Commission 79 draft opinions and orders resolving substantive motions. The Commission issued 43 opinions and 29 related orders, and the staff resolved by delegated authority an additional 124 motions. Appeals from decisions of administrative law judges continue to make up a high percentage of the Commission's docket.

Sanctions

Collateral or Industry-Wide Bars

The Commission considered whether it properly may impose on respondents so-called "collateral" or industry-wide bars. In *Meyer Blinder*,¹⁷⁶ the Commission determined that section 15(b)(6) of the Securities Exchange Act of 1934 (Exchange Act) authorizes the agency to bar an associated person of a broker-dealer from securities activities other than broker-dealer activities. The Commission stated that a collateral bar appropriately may be imposed when it is against the public interest to allow a person to serve in any capacity in the securities industry. Factors bearing on the public interest include the nature and scope of a

respondent's misconduct. In light of the egregiousness of his conduct, the Commission exercised its authority to bar Blinder, the president of a now-defunct broker-dealer, not only from associating with any broker-dealer, but also from associating with any municipal securities dealer, investment adviser, or investment company.

In *Robert I. Moses*,¹⁷⁷ by contrast, the Commission found that it lacked the authority to bar a respondent from activities unrelated to the securities industry. It accordingly set aside an administrative law judge's sanction barring an individual who had been associated with various broker-dealers from engaging in the telecommunications business.

Penny Stock Bars

In *Benjamin G. Sprecher*,¹⁷⁸ the Commission determined that the sanction of a penny stock bar is remedial, not punitive, in nature. The Commission barred Sprecher, a securities attorney, from participation in any offering of penny stock based on a criminal conviction for misconduct occurring before the effective date of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 (Remedies Act). The Commission concluded that the bar did not violate either the Ex Post Facto or Double Jeopardy Clauses of the Constitution.

In *Russell G. Koch*,¹⁷⁹ the Commission rejected the claim that imposing a penny stock bar on Koch, formerly a registered principal, owner, and president of a broker-dealer, based on a permanent injunction entered by a district court, was a retroactive application of the Remedies Act. Although the injunction arose out of Koch's pre-Remedies Act conduct, it was entered more than three years after that Act became effective and supplied an independent basis for the bar.

Disgorgement

In *Donald A. Roche*,¹⁸⁰ the Commission found that Roche, a former registered representative and branch manager of a broker-dealer, violated the antifraud provisions of the securities laws when he made baseless price predictions to customers, misled a reluctant customer to make a sale, and churned three customer accounts. In ordering Roche to disgorge his illegal profits from the churning, the Commission concluded that its order for

disgorgement was not a “penalty” so as to trigger 28 U.S.C. § 2462’s general federal statute of limitations on proceedings in which a “fine, penalty or forfeiture, pecuniary or otherwise” is sought.

Improper Professional Conduct

On remand from the United States Court of Appeals for the District of Columbia Circuit,¹⁸¹ in *David J. Checkosky and Norman A. Aldrich*,¹⁸² the Commission reaffirmed its earlier findings¹⁸³ that, under former rule 2(e) of the Commission’s Rules of Practice (now rule 102(e)), a partner and audit manager for Coopers & Lybrand engaged in improper professional conduct when their audit work deviated recklessly from the requirements of Generally Accepted Auditing Standards and Generally Accepted Accounting Principles. Responding to the District of Columbia Circuit’s directive that it address the mental state required for a finding of improper professional conduct under rule 2(e), the Commission found that no particular mental state is required.

*Robert D. Potts, CPA*¹⁸⁴ resolved the first litigated proceeding against a concurring partner acting solely in that capacity. The Commission determined that Potts’ concurrence in the issuance of unqualified audit opinions on a company’s financial statements, which materially misstated its income, recklessly deviated from professional standards and warranted a suspension from practice before it.

Sales Practice Abuses/Fraud/Sale of Unregistered Securities

The Commission imposed sanctions ranging from a two-year broker-dealer bar to a permanent bar against two former principals, a regional vice-president, and four branch managers of a broker-dealer in *C. James Padgett, et al.*¹⁸⁵ The sanctions arose out of the respondents’ abusive practices, which included charging excessive markups, using telephone sales scripts that contained misleading predictions of increases in the price of speculative securities, discouraging customers from selling certain securities until another customer agreed to purchase them, and conditioning customers’ purchases of securities on their agreement to sell those securities back to the firm.

In *Stephen Thorlief Rangen*,¹⁸⁶ resolving an appeal from a New York Stock Exchange (NYSE) disciplinary action, the Commission found that a former registered representative of Shearson Lehman Brothers, Inc. made unsuitable recommendations of securities to three customers, all inexperienced investors, and excessively traded in the customers' accounts. The Commission sustained the censure and four-year suspension in all capacities that the NYSE had imposed.

In *Prime Investors, Inc., Kenneth James Wright, and Michael Lyn Johnson*,¹⁸⁷ the Commission found that a member firm of the NASD, its president, and one of its registered representatives offered and sold unregistered, non-exempt securities in violation of the Securities Act of 1933 (Securities Act), made materially misleading statements in connection with those offers and sales, and misused investor funds. The Commission also found that the firm violated Federal Reserve System prompt-payment and margin requirements with respect to several dozen security trades. The Commission sustained the NASD's sanctions, which included the firm's expulsion from membership in the NASD.

Legal Policy

During 1997, the General Counsel had a significant role in implementing NSMIA, including (1) the adoption of rules mandating a new system of federal-state investment adviser regulation, and (2) the preparation of a report on technology mandated by NSMIA. In the administrative area, the General Counsel took the lead role in implementing new administrative and rulemaking requirements arising out of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, 110 Stat. 857.

The General Counsel also has substantial responsibility for carrying out the Commission's legislative program, including drafting testimony, developing the Commission's position on pending bills in Congress, and providing technical assistance to Congress on legislative matters. The staff prepared a report to the President and Congress regarding the impact of the Reform Act.

Significant Legislative Developments

In 1997, only one minor piece of securities legislation was enacted into law--a bill extending the effective date of certain provisions of NSMIA that apply to the regulation of investment advisers. However, Congress held hearings and actively considered a variety of other legislative initiatives in areas of significant interest to the Commission, including financial services reform, securities litigation reform, repeal of the Public Utility Holding Company Act, decimal trading, and accounting for derivatives.

Amendment to Securities Reform Legislation

On March 31, 1997, President Clinton signed a bill into law extending the effective date of Title III of NSMIA from April 9, 1997 to July 8, 1997. (Pub. L. No. 105-8, 111 Stat. 15 (1997)). Title III of NSMIA, called the Investment Advisers Supervision Coordination Act (Coordination Act), was designed in large part to eliminate duplicative state and federal securities regulation. Under the Coordination Act, regulation of investment advisers is divided between the Commission and the states. In general, the Commission regulates advisers to registered investment companies and advisers with \$25 million or more in assets under management. The states regulate smaller advisers.

The Coordination Act gave the Commission only six months to implement the rules effecting the division of investment adviser regulation between the states and the Commission. Although the Commission moved quickly after enactment to propose implementing rules on December 20, 1996, the Commission was concerned that the six-month implementation period was too short, and that certain small advisers who did not return the necessary paperwork in a timely fashion would not be identified for regulation by the appropriate state by the Act's effective date.

Congress responded to the Commission's concerns and, in March 1997, extended the Coordination Act's effective date by 90 days, to July 8, 1997. The Commission subsequently adopted final rules on May 15, 1997 implementing NSMIA. The Coordination Act took effect on July 8, 1997.

Decimalization

On March 13, 1997, H.R. 1053, the Common Cents Stock Pricing Act of 1997, was introduced in the House of Representatives to require the Commission to issue rules setting a timetable for introducing securities trading in decimal intervals. S. 838, a companion bill identical to H.R. 1053, was introduced on June 5, 1997 in the Senate. For several years commentators have urged the U.S. stock exchanges to make this change, because they argue that relatively large increments of one-eighth of a dollar pricing (12-1/2 cents) allow dealers to take larger profits from trading than would be taken if trading were in decimals (hundredths of dollars) instead.

The Subcommittee on Finance and Hazardous Materials of the House Commerce Committee held hearings on H.R. 1053 in April 1997. The bills ultimately were put on hold by their sponsors because several SROs decided to make the change voluntarily by the year 2000, if possible. On March 13, 1997, the American Stock Exchange (AMEX) voted to move to decimal pricing, and on May 7, 1997, it began trading in sixteenths rather than eighths of a dollar. The Nasdaq Stock Market also began trading in sixteenths on June 2, 1997. Despite opposition voiced less than one month earlier, the NYSE voted on June 5, 1997, to begin trading in decimals instead of fractions by January 2000, and on June 24, 1997, the NYSE began trading in sixteenths as an interim measure.

The industry has continued to move towards decimal pricing. The Commission's staff has held meetings with the markets to work out an orderly transition of industry systems to decimals.

Securities Activities of Banks

In 1997, Congress again devoted considerable attention to Glass-Steagall reform. Three major legislative proposals on the subject were introduced and actively considered: (1) H.R. 10, the Financial Services Competitiveness Act of 1997, was introduced on January 7, 1997; (2) H.R. 268, the Depository Institution Affiliation and Thrift Charter Conversion Act, also was introduced on January 7, 1997; and (3) S. 298, the Depository Institution Affiliation Act, and its identical companion bill H.R. 669, also the Depository Institution Affiliation Act, were introduced on February 11, 1997. In addition, the Department of the Treasury

released a legislative proposal to overhaul the Glass-Steagall Act. Although the Treasury Proposal was widely discussed in Congress, it was not formally introduced as a bill in 1997.

After extensive consideration of the three Glass-Steagall bills before the House Banking Committee, as well as the Treasury Proposal, the Committee reported H.R. 10 on June 20, 1997. The bill then was referred to the House Commerce Committee for its consideration. At the end of 1997, this committee was working on its version of H.R. 10, which ultimately was reported out of committee on October 30, 1997. At the end of the first session of the 105th Congress, the House leadership was working to craft a version of H.R. 10 that could be supported by both the House Banking and House Commerce Committees and the affected regulators and industries.

The Commission testified several times regarding the various bills under consideration and its views regarding Glass-Steagall reform. The Commission testified before the Subcommittee on Financial Institutions and Consumer Credit of the House Banking Committee regarding H.R. 268 on February 13, 1997. On May 22, 1997, the Commission testified before the House Banking Committee regarding financial reform generally and H.R. 10 specifically. The Commission testified before the Subcommittee on Finance and Hazardous Materials of the House Commerce Committee regarding H.R. 10 on July 17, 1997.

In general, the Commission has supported Glass-Steagall reform, provided that the resulting regulatory structure is established along “functional” lines. The concept of “functional regulation” would require that banks engage in most securities activities through a registered broker-dealer, fully subject to the federal securities regulatory scheme. The Commission has testified that this is important because banking law does not contain specific provisions that provide for investor protection; the Commission believes that investors that purchase securities through banks should receive the same investor protections as those that purchase securities from broker-dealers. Functional regulation would achieve this result. The Commission’s testimony on Glass-Steagall issues generally (1) supported the elimination of the bank exclusions from the federal securities laws, (2) advocated the concept of a “two-way street” to allow equal competitive opportunities to all financial services providers, (3) criticized

the application of bank-oriented safety and soundness regulation to securities firms' activities, which would inhibit risk-taking by securities firms affiliated with banks, and (4) opposed the additional layers of bureaucracy imposed on the financial services industry in the form of a National Financial Services Council.

Litigation Reform

Congress actively considered a range of issues arising out of the Reform Act hearings. In response to a request from President Clinton, the Commission undertook to study the impact of the Litigation Reform Act. On April 15, 1997, the *Report to the President and the Congress on the First Year of Practice Under the Private Securities Litigation Reform Act of 1995* (Staff Report) was delivered. This report discusses the first year's experience with the Litigation Reform Act and concludes that it is too soon to draw definitive conclusions about the impact of the Litigation Reform Act on the effectiveness of the securities laws and on investor protection. The report does, however, make some preliminary observations.

The Commission testified on July 24, 1997 before the Subcommittee on Securities of the Senate Banking Committee to discuss the Staff Report. The testimony suggested that preemption of state law at present would be premature, pending more experience with implementation of the Litigation Reform Act, and that any preemption proposals should be narrowly tailored to address documented abuses. In addition to the Commission testimony, Commissioner Wallman submitted a statement of his own views, in which he agreed that it was too soon to assess the effects of the Litigation Reform Act, but arguing that preemption was ready to be debated on its own merits.

Three follow-up litigation reform bills have been introduced in Congress. In the House of Representatives, H.R. 1653, the Securities Litigation Improvement Act of 1997, was introduced on May 16, 1997, and H.R. 1689, the Securities Litigation Uniform Standards Act of 1997, was introduced on May 21, 1997. These bills, in varying degrees, would preempt state fraud actions in securities that are nationally traded. The bills thus would create a uniform federal standard for fraud involving securities of widely-traded companies, such as those traded, for example, on the NYSE, the AMEX, and the Nasdaq. In addition, S. 1260, the

Securities Litigation Uniform Standards Act of 1997, was introduced in the Senate on October 7, 1997.

The Public Utility Holding Company Act of 1935

In 1997, Congress considered a number of bills to repeal the Public Utility Holding Company Act of 1935 (PUHCA). Repeal of PUHCA has been stalled as Congress debates whether to simply repeal PUHCA or to repeal it as part of more sweeping electric utility deregulation. Specifically, six bills were introduced in 1997 to repeal PUHCA. Three bills regarding PUHCA repeal were introduced in the House: H.R. 655, the Electric Consumers' Power to Choose Act of 1997, on February 10, 1997; H.R. 1230, the Consumers Electric Power Act of 1997, on April 8, 1997; and H.R. 1960, the Electric Power Competition and Consumer Choice Act of 1997, on June 19, 1997. All of the House bills link PUHCA repeal to electric utility deregulation. In addition, three Senate bills were introduced: S. 237, the Electric Consumers Protection Act of 1997, on January 30, 1997; S. 621, the Public Utility Holding Company Act of 1997, on April 22, 1997; and S. 722, the Electric Utility Restructuring Empowerment and Competitiveness Act of 1997, on May 8, 1997. Notably, four of the bills introduced in 1997 are almost identical to bills introduced and considered in previous years.

On April 29, 1997, the Commission testified regarding PUHCA repeal before the Senate Banking Committee. The testimony supported S. 621, a bill that would largely implement conditional repeal of PUHCA as recommended by the Commission in its 1995 PUHCA study. The testimony noted, however, that the bill does not adopt the Commission's recommendation that the Federal Energy Regulatory Commission have discretion to exercise jurisdiction over affiliate transactions of public utility holding companies.

The Commission testified again regarding PUHCA repeal on June 24, 1997, during a series of workshops sponsored by the Senate Committee on Energy and Natural Resources. These hearings focused on issues relating to a more comprehensive energy reform, including deregulating the energy power industry. The Commission's testimony restated support for conditional PUHCA repeal, but did not take a position on the broader issues involving comprehensive energy reform.

SEC-Commodity Futures Trading Commission Issues

During 1997, both the House and the Senate considered bills that would substantially amend the Commodity Exchange Act (CEA)--S. 257 introduced on February 4, 1997, and H.R. 467 introduced on January 21, 1997. Three elements of the bills are of particular interest to the Commission as regulator of the securities exchanges and over-the-counter (OTC) securities markets: (1) amendments and clarifications of the Treasury Amendment (which excludes certain financial instruments from the scope of the CEA); (2) the addition of a private transaction exemption (which would codify in the CEA a swaps exemptive rule); and (3) addition of a professional market exemption (which would essentially exempt from most CEA regulation trading among institutional and wealthy individuals).

In a written statement dated March 14, 1997 to the Senate Agriculture Committee, the Commission stated that it generally supported S. 257's proposed amendments to the Treasury Amendment. With respect to the private transaction exemption, the Commission stated that it was important to enhance legal certainty for the market in privately-negotiated OTC swaps, but expressed a preference for an outright exclusion (rather than an exemption) from the CEA for all institutional OTC transactions in securities-based swaps. Finally, the Commission opposed the professional-market exemption contained in S. 257. The Commission stated that the broad exemption drafted in S. 257 would expose the futures markets to additional risk of manipulation, call into question the validity of the exchanges as price discovery mechanisms, and potentially could undermine the Commission's ability to regulate trading and detect fraud involving the securities underlying the futures and options traded in the professional markets.

On April 15, 1997, the Commission testified before the Subcommittee on Risk Management and Specialty Crops of the House Agriculture Committee. In this testimony, the Commission expressed its support for clarification of the Treasury Amendment, but continued to voice its strong opposition to the professional-market exemption. In addition, the Commission explained again that an exception from the CEA for swaps and other privately-negotiated OTC derivative transactions would be the

most appropriate way to provide legal certainty to participants in that market.

SEC Appropriations

On March 14, 1997, the Commission testified before the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies of the House Appropriations Committee. The testimony supported the President's 1998 budget request of \$317.4 million for the Commission. The Commission testified again in support of the Commission's budget request on March 19, 1997 before the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies of the Senate Appropriations Committee.

From October 1, 1997 until final signing of the bill on November 26, 1997, the Commission operated pursuant to six continuing resolutions, which provided the Commission with authority to operate at its fiscal 1997 budget level, and to continue to collect fees at the rates set in fiscal 1997. On November 26, 1997, H.R. 2267, "a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the year ending September 30, 1998" was enacted becoming Pub. L. No. 105-119. It provides the SEC \$315 million for 1998 and includes language that provides offsetting fees in accord with the levels authorized in NSMIA.

SEC Reauthorization

On March 6, 1997, the Commission testified before the Subcommittee on Finance and Hazardous Materials of the House Commerce Committee concerning the Commission's authorization request, seeking appropriations of \$320 million for 1998 and \$342.7 million for 1999. In response to questions posed at this hearing, Chairman Levitt agreed to conduct a study of issues presented by bills that would require disclosure of corporate charitable contributions and would give shareholders a role in selecting recipients of corporate charity (H.R. 994 and H.R. 995 introduced on March 5, 1997).

On April 9, 1997, H.R. 1262 was introduced in the House of Representatives to reauthorize the Commission for 1998 and 1999. The

bill reflected the Commission's authorization request. On May 21, 1997, the Subcommittee on Finance and Hazardous Materials approved the SEC authorization bill for full committee action. The House Commerce Committee reported the bill on July 23, 1997. An effort was made to pass the bill in the House on suspension calendar on October 1, 1997, but it was blocked due to an unrelated partisan political dispute. The bill was subsequently passed by the House on November 13, 1997. No Senate action took place before the recess.

Year 2000 Computer Issue

In response to an inquiry from Congressman Dingell of the House Commerce Committee, the Commission staff prepared a report on the year 2000 issue and, on July 30, 1997, the Commission testified regarding this issue before the Subcommittee on Financial Services and Technology of the Senate Banking Committee. The report addressed the Commission's readiness to deal with the year 2000 issue, the readiness of the securities industry and public companies, the Commission's position regarding corporate disclosure as it relates to the year 2000 issue, and actions the Commission intends to take to reduce risks associated with the issue. The Commission's testimony stated that the securities industry is preparing to correct year 2000 problems, but that failure to correct the problems will ultimately be dealt with by the markets. It also described the Commission's cooperative efforts with the Securities Industry Association, which is spearheading efforts to organize testing to ensure that market participants are year 2000 compliant. Senator Bennett of the Senate Banking Committee requested that all of the agencies at the hearing report on an ongoing basis regarding year 2000 issues.

Other SEC Testimony

There was considerable congressional interest in issues relating to disclosure and accounting for derivatives during the 105th Congress. The Commission testified before the Subcommittee on Securities of the Senate Banking Committee regarding derivatives issues on March 4, 1997. Additional testimony on these issues was provided on October 1, 1997 before the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises of the House Banking Committee.

The Commission also testified about micro-cap fraud issues involving penny stocks and other small company securities on September 22, 1997 before the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs.

Corporate Reorganizations

The Commission, as a statutory adviser in cases under Chapter 11 of the Bankruptcy Code, seeks to assure that the interests of public investors are protected. During the year, the Commission entered a formal appearance in 31 Chapter 11 cases involving companies with significant public investor interest. The Commission, in order to protect the holders of the orange county's public debt securities and the municipal bond market generally, also was actively involved in the *Orange County*¹⁸⁸ Chapter 9 bankruptcy, which came to a successful conclusion during the year.

Committees

Official committees negotiate with debtors on the formulation of reorganization plans and generally participate in all aspects of a Chapter 11 case. The Bankruptcy Code provides for the appointment of an official committee for stockholders where necessary to assure adequate representation of their interests.

During 1997, the Commission, to assure that committees were not hindered in their efforts to represent public investors, successfully objected to attempts to prevent the retention of counsel by the official equity committee in *In re Grossman's Bros*¹⁸⁹ and to limit payment of attorneys fees to counsel for the official equity committee in *In re Edison Brothers Stores, Inc.*¹⁹⁰. Committees were appointed in three cases as a result of informal discussions with U.S. Trustees.¹⁹¹

Estate Administration

The Commission protects the interests of public investors by participating in selected matters involving administration of the debtor's estate. In *In re Sizzler Restaurants International, Inc. et al.*¹⁹², the debtor,

at the outset of the Chapter 11 case, sought court approval of lucrative employment agreements for 19 key officers and personnel. The Commission argued that the court should independently review the facts and circumstances of the case, that the debtors had not presented sufficient evidence in support of their position and that until they presented strong evidence of the need for and reasonableness of the particular payments, the motion should not be granted. Concurring with the Commission's position, the court continued the motion so that a full evidentiary hearing could be held and additional briefs filed. Prior to the continued hearing date, the debtors withdrew the motion.

In *In re Home Theater Products International, Inc.*,¹⁹³ the Commission objected to the approval of a proposed settlement that provided for a substantial payment to the estate by the debtor's former principal (who allegedly had engaged in a massive securities fraud) in exchange for the release of all of the debtor's claims against the principal. The settlement also sought to enjoin and release claims of shareholders and the Commission. The Commission argued that its claims, as well as shareholder claims, against the non-debtor principal were non-derivative and, therefore, could not be enjoined under section 105(a) of the Bankruptcy Code, as the debtor had argued, because the claims were not property of the estate and their prosecution did not interfere with the administration of the estate. The Commission also argued that section 524(e) and its underlying policy prohibit the release of third-party claims against non-debtors. The court agreed with the Commission's position that the debtor had not satisfied the elements of section 105(a) and on that basis denied the motion.

In *Munford v. Munford, Inc.*,¹⁹⁴ a divided panel of the United States Court of Appeals for the Eleventh Circuit held, contrary to the position urged by the Commission, that the Bankruptcy Code does not protect leveraged buyout (LBO) payments made by a company to its shareholders from recovery under fraudulent conveyance laws when the company later goes into bankruptcy. The Commission previously had argued successfully in the Tenth Circuit Court of Appeals, the only other court of appeals to address this issue, that section 546(e) of the Bankruptcy Code, which shields securities settlement payments from recovery as a fraudulent conveyance or preference, applies to LBO payments. *See Kaiser Steel Corp. v. Pearl Brewing Co.*¹⁹⁵ The Commission filed a petition with

suggestion for rehearing by the full Court of Appeals, which was denied on July 9, 1997. Petitions for review by the Supreme Court are pending.¹⁹⁶

Disclosure Statements/Reorganization Plans

A disclosure statement is a combination proxy and offering statement used to solicit acceptances for a reorganization plan. Such plans often provide for the issuance of large quantities of new unregistered securities pursuant to an exemption from Securities Act registration contained in the Bankruptcy Code. During 1997, the Commission's bankruptcy staff commented on 59 of the 64 plans and disclosure statements it reviewed. In addition, the staff commented on 50 of the 65 amended disclosure statements it reviewed. Recurring problems with disclosure statements included inadequate financial information, lack of disclosure on the issuance of unregistered securities and insider transactions, and plan provisions that contravene the Bankruptcy Code. Most of the staff's comments were adopted by the debtors; formal Commission objections were filed in five cases.¹⁹⁷ In addition, the Commission prevented the unlawful issuance of securities in five cases.¹⁹⁸

The Commission successfully objected to six plans of reorganization that attempted to obtain a release from liability for certain of the debtors' officers, directors, and other related persons.¹⁹⁹ The release of third parties from liability is significant to investors because in many cases debtors seek to use the Chapter 11 process to protect officers and directors from personal liability for various kinds of claims, including liability under the federal securities laws. Also, as a result of the Commission's comment process for plan disclosure statements, improper third party release provisions were abandoned in five cases.²⁰⁰

In six cases the Commission successfully objected to attempts to discharge claims of creditors and sell the remaining assetless public shell corporations.²⁰¹ The trafficking in public company corporate shells--which can lead to stock market manipulation--is specifically prohibited by the Bankruptcy Code.

Enforcement Matters

Bankruptcy issues frequently arise in Commission enforcement actions. In *In re Bilzerian*,²⁰² the district court reversed a bankruptcy court order that had refused to give collateral estoppel effect (*i.e.*, to accept the factual findings of the district court) to the Commission's \$33 million securities fraud disgorgement judgment. The district court, in finding that every element necessary to prove nondischargeability of the debt was established by the prior criminal and civil proceedings against Bilzerian, directed the bankruptcy judge to enter summary judgment for the Commission that its disgorgement judgment is nondischargeable. Bilzerian has appealed the decision to the Eleventh Circuit.²⁰³ The matter is pending.

In *In re Cross*,²⁰⁴ the Commission appealed a bankruptcy court order dismissing its adversary complaint seeking a determination that Cross' \$6.5 million judgment debt for disgorgement of proceeds from an illegal offering of unregistered securities in the form of promissory notes is nondischargeable under section 523(a)(2)(A) of the Bankruptcy Code as a debt for money obtained by fraud. The bankruptcy court dismissed the Commission's complaint, holding that the Commission lacked standing under section 523 because it is not a creditor of the debtor, since the district court in the Commission's action against the debtor directed payment of the disgorgement award to the court-appointed receiver.²⁰⁵ The Commission appealed the decision to the Bankruptcy Appellate Panel for the Ninth Circuit arguing that the Commission is the creditor with the right to enforce its judgment and hence the appropriate creditor to bring a nondischargeability action.²⁰⁶ The matter is pending.

In *In re Hibbard Brown*,²⁰⁷ a Chapter 11 case involving a penny stock broker-dealer, the Commission objected to the fairness of a proposed settlement with certain former registered representatives and employees who allegedly defrauded investors of more than \$115 million. The Commission argued that the proposed contributions by these third parties were inadequate to support a general release of all claims arising from their fraudulent activity. The matter is pending.

In *In re Absolute Resources*²⁰⁸ the Commission successfully objected to the debtor's plan that continued the employment of its managers who were the subject of a Commission law enforcement investigation that uncovered facts that established management's misconduct.

Ethical Conduct Program

In 1997, the staff responded to 1,420 counseling inquiries and reviewed and cleared 161 speeches and articles submitted by SEC employees. The staff assisted two nominees for Commissioner in the nomination process, including, among other things, advising on financial disclosure, resolving conflicts of interest, and formulating ethics agreements.

Municipal Securities Initiatives

The Office of Municipal Securities provides expertise to the Commission and staff, assists on municipal securities enforcement cases, coordinates disclosure rules and other ongoing municipal regulatory initiatives, and addresses new issues that arise in the municipal area. In addition, the office provides assistance on legislative matters and works directly with issuers, investors, brokers, dealers, municipal securities dealers, and other professionals on issues relating to municipal securities.

Key 1997 Results

The Office of Municipal Securities coordinated the Commission's efforts to end pay-to-play practices in the municipal securities markets, promoting education and compliance with related rules of the Municipal Securities Rulemaking Board (MSRB) and encouraging voluntary action by national and local bar associations to end the practice. The office provided the Division of Enforcement and the regional and district offices with technical assistance in municipal securities investigations and enforcement proceedings. In addition, the office consulted with the Division of Market Regulation on rulemaking and interpretation of Commission rules relating to the municipal securities market, and worked with the Division of Investment Management on rulemaking relating to municipal securities. The office provided interpretive and other guidance to the municipal markets, including issuers, brokers, dealers, and municipal securities dealers, in conjunction with the implementation of amendments (concerning secondary market disclosure) to rule 15c2-12 of the Securities Exchange Act of 1934. The staff also worked with the Division of Market Regulation regarding the interpretation and implementation of MSRB rules G-36, G-37, and G-38.

Municipal Securities Disclosure

The staff continued to educate municipal market participants in the implementation of, and compliance with, amendments to rule 15c2-12, concerning secondary market disclosure. The office provided guidance to market participants regarding recent SEC enforcement decisions that apply the antifraud provisions of the federal securities laws to municipal securities. The staff assisted state and local government groups in preparing materials to educate municipal market participants.

Technical Assistance

The Office of Municipal Securities worked with the Division of Market Regulation on matters relating to the MSRB, including the implementation of, amendments to, and interpretation of MSRB rules G-37 and G-38. MSRB rule G-37 prohibits brokers, dealers, and municipal securities dealers from engaging in municipal securities business with issuers if certain political contributions have been made to officials of such issuers. MSRB rule G-38 requires disclosure of consulting arrangements. In addition, the staff worked with the Divisions of Market Regulation and Corporation Finance on various issues surrounding the implementation of amendments to rule 15c2-12 and certificates of participation in municipal leases.

The municipal securities staff worked with the Office of General Counsel on municipal bankruptcy and other municipal securities matters, provided technical assistance to the Division of Enforcement in cases involving municipal securities and the municipal securities market, assisted the Office of Compliance Inspections and Examinations in oversight of the municipal securities market and provided expertise for training programs, and assisted the Office of Investor Education and Assistance on issues pertaining to individual investors and municipal securities price transparency.

Outreach

As part of its outreach efforts, the municipal securities staff met periodically with numerous organizations representing participants involved in the municipal finance industry. Among the organizations were the Government Finance Officers Association, National League of Cities, National Association of Counties, U.S. Conference of Mayors, Council of Infrastructure Financing Authorities, Bond Market Association, National Association of Bond Lawyers, and a variety of regional and local municipal government educational groups.

Economic Research and Analysis

The Office of Economic Analysis provides expertise in financial economics to the Commission and the operating divisions, evaluates the economic impact of proposed rules, conducts studies that are designed to expand the Commission's understanding of capital markets, and plays a major role in the Commission's enforcement effort by applying economic and statistical tools to issues such as materiality and disgorgement. The office reviews all rule proposals to assess their potential effects on: (1) small businesses as required by the Regulatory Flexibility Act (RFA) and section 502 of the Small Business Investment Incentives Act, both enacted in 1980; (2) competition within the securities industry and competing securities markets as required by the 1975 amendments to the Securities Exchange Act of 1934; (3) efficiency, competition, and capital formation pursuant to section 106 of the National Securities Markets Improvement Act of 1996 (NSMIA); and (4) costs, prices, investment, innovation, and the economy as required by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

Key 1997 Results

In 1997, the office analyzed the effects of preferencing on the execution of customers' orders and competition among dealers and markets. The analysis was incorporated into a study sent to Congress in April, as required by NSMIA. The office also provided extensive analyses of the impact of the new order handling rules on the Nasdaq market; provided the Commission with data regarding the effects of new Regulation M on issuers, underwriters, and securities offerings; and analyzed how changes in rule 144 would impact resales of securities and share prices.

Economic Analysis and Technical Assistance

The office analyzed 54 Commission and self-regulatory organization rules to assess their costs and benefits, as well as their potential effects on small entities, as required by the RFA.

The office provided substantial quantitative economic evidence to the Division of Corporation Finance concerning the new holding periods for the resale of private placements pursuant to rule 144 and analyzed over 200,000 filings of Form 144 that were made from January 1, 1988 through April 30, 1996. This analysis provided data concerning the number of companies using the rule to make private placements, the type and dollar amount of securities sold, the price impact of resales of the securities into the public markets, and the impact of resale restrictions. The Division of Corporation Finance used the results of this analysis in crafting proposed changes to the rule.

In April 1997, Regulation M replaced the Commission's trading practice rules governing potentially manipulative trading during a securities distribution. The economic analysis staff analyzed data to assess the costs and benefits of the new rules and their likely effects on capital formation and the economy. The office concluded that the rules would promote capital formation and have no adverse effects on the economy. The staff currently is studying the activities of underwriters in the period immediately following securities distributions since Regulation M went into effect.

The office participated in the program to monitor and assess the impact of the Commission's new order handling rules, which were implemented in January 1997, and provided data on the rules' effects on bid-ask spreads, quotation depth, Small Order Execution System activity, trade reporting practices, and the prices at which orders were executed relative to contemporaneous price quotations. Prior to the implementation of the new order handling rule, the office provided evidence that investors often were confronted by artificially wide, inflexible spreads, and frequently could not transact in the Nasdaq market at the best prices. The office's analyses indicate that bid-ask spreads narrowed after the new order handling rules went into effect and that investors have benefited from their ability to trade at the improved price quotations.

Pursuant to section 510(C) of NSMIA, the office provided extensive analysis and empirical data for the report to Congress on the practice of preferencing. Preferencing programs of exchanges allow a preferencing dealer to take priority over same-priced orders or quotations entered prior in time. Congress directed the Commission to examine whether retail trades are disadvantaged by this practice.

As part of an evaluation of the Nasdaq Over-the-Counter (OTC) Bulletin Board, the office continued to analyze the U.S. OTC market for unregistered foreign equities. The Bulletin Board is a proprietary electronic quotation medium on which broker-dealers post quotations and indications of interest for unlisted domestic stocks and foreign equities. The evaluation addressed concerns about the adequacy of price transparency and potential harm to retail investors stemming from the lack of U.S. Generally Accepted Accounting Principles financial disclosure by issuers of unregistered foreign equities. The study examined the degree of retail participation, dealer concentration, and the size of the U.S. market relative to worldwide trading in the same foreign equity.

In the enforcement area, the office assisted the Division of Enforcement in many cases of insider trading, market manipulation, fraudulent financial reporting, and other violations of securities laws. This work generally involved the application of financial economics and statistical techniques to determine whether the elements of fraud are present and to estimate, where appropriate, the amount of disgorgement to be sought. The economic analysis staff assisted in evaluating the testimony of experts hired by opposing parties.

The office pursued a variety of projects designed to expand the Commission's understanding of the capital markets. These projects are long-term in nature and focus on the market impacts of unallocated shelf offerings, the sale of unregistered securities, and restrictions on short sales. The office worked with the Division of Investment Management on ways to improve the formulation and display of mutual fund risk in disclosure materials and designed a survey that will be administered to mutual fund investors regarding their knowledge of fees and costs incurred in making mutual fund purchase decisions.

Throughout the year, the economic analysis staff provided additional advice and a variety of statistical analyses to the Commission and operating divisions, including the extent of price improvement for New York Stock Exchange SuperDot market orders, certain applications for exemptions filed by public utilities, the accuracy of transaction fees collected by the Commission, and certain applications by exchanges to trade options and swaps contracts.

Policy Management and Administrative Support

Policy management and administrative support provide the Commission and operating divisions with the necessary services to accomplish the agency's mission. Policy management is provided by the executive staff and Offices of Legislative Affairs; the Secretary; Public Affairs, Policy Evaluation and Research; the Executive Director; and Equal Employment Opportunity. The responsibilities and activities of policy management include developing and executing management policies, formulating and communicating program policy, overseeing the allocation and expenditure of agency funds, maintaining liaison with the Congress, disseminating information to the press, and facilitating Commission meetings.

Administrative support includes services such as accounting, financial management, fee collection, information technology management, data processing, space and facilities management, and human resources management. Under the direction of the Office of the Executive Director, these services are provided by the Offices of the Comptroller, Information Technology, Administrative and Personnel Management, and Filings and Information Services.

Key 1997 Results

The Commission held 57 meetings in 1997, during which it considered 272 matters. Significant rules proposed or adopted and concept releases issued by the Commission included:

- proposals to require plain English disclosure;
- a package of reforms, including amendments to the shareholder proposal rule, to address concerns raised by shareholders and corporate participants in the shareholder proposal process;
- adoption of new anti-manipulation rules affecting securities offering participants;

- adoption of rules relating to the reallocation of responsibilities for regulating investment advisers between the SEC and the states; and
- a concept release soliciting comment on alternative approaches to regulation of exchanges.

The agency collected fees for the United States Treasury in excess of its appropriation for the fifteenth straight year. In 1997, total SEC fees collected as revenue were \$990.4 million and the net gain to the Treasury was \$630.1 million.

Policy Management

Commission Activities

During 57 Commission meetings held in 1997, the Commission considered 272 matters, including the proposal and adoption of Commission rules, enforcement actions, and other items that affect the stability of the nation's capital markets and the economy. The Commission also acted on 987 staff recommendations by seriatim vote. Significant regulatory actions taken by the Commission included:

- proposals to require plain English disclosure;
- adoption of a new anti-manipulation regulation (Regulation M) that simplifies, modifies, and eliminates provisions that restricted the activities of securities offering participants;
- publication of a concept release soliciting comment on alternative approaches to regulation of exchanges;
- proposals to address concerns raised by shareholders and corporate participants in the shareholder proposals process; and
- adoption of rules and amendments to implement the provisions of the Investment Advisers Supervision Coordination Act that

reallocates responsibilities for regulating investment advisers between the SEC and the states.

Management Activities

The Office of the Executive Director continued to promote management controls and financial integrity and to manage the agency's audit follow-up system. The office continued to analyze the efficiency and effectiveness of operating divisions and support offices and to coordinate and implement the agency's compliance with and response to actions under the Government Performance and Results Act of 1993 (GPRA), including development of the agency's strategic plan. Working closely with other senior officials, the office formulated the agency's budget submissions to the Office of Management and Budget and the Congress.

In early September, the SEC submitted a formal strategic plan to the Office of Management and Budget and Congress, as required by the GPRA. The plan presents strategic objectives and subobjectives used by the SEC to accomplish its three major goals--protect investors, facilitate capital formation, and maintain fair, honest, and efficient markets. Also nearing completion is a performance plan that includes quantitative performance indicators and targets to measure the SEC's success in meeting its strategic goals.

Public Affairs

The Office of Public Affairs, Policy Evaluation and Research communicated on Commission activities to those interested in or affected by Commission actions, including the press, regulated entities, the general public, and SEC employees. The office published the *SEC News Digest* daily, which provides information on rule changes, enforcement actions against individuals or corporate entities, administrative actions, decisions on requests for exemptions, upcoming Commission meetings, and other events of interest. The office also published a regular employee newsletter and prepared a daily summary of news clips for agency employees. In addition, the office provided support for the Chairman's investor education initiatives, the SEC's internet website, and the agency's International Institute for Securities Markets Developments.

Many of the agency's actions are of national and international interest. When appropriate, these actions are brought to the attention of regional, national, and international press. The public affairs office issued 109 press releases on upcoming events, SEC programs, enforcement actions, and special projects. The office also responded to 50,000 requests for specific information on the SEC or its activities and coordinated visits of domestic and foreign officials to the SEC. In total, programs for 816 foreign visitors were coordinated during the year.

Equal Employment Opportunity

The Office of Equal Employment Opportunity (EEO) ensured the agency's compliance with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, as amended, and the Equal Pay Act of 1963. As required by these statutes, the SEC processed discrimination complaints, publicized anti-discrimination policies, tracked the agency's employee diversity statistics, and developed programs to increase agency representation of minorities and women.

In 1997, the EEO office addressed formal and informal complaints of discrimination through counseling, mediation and dispute resolution, investigations, reports of investigation, and final agency decisions. The office also met its affirmative employment responsibilities by training employees and conducting special emphasis programs. Finally, working with members of the industry, the SEC's EEO Director chaired the Securities and Exchange Commission-Securities Industry Committee on Equal Opportunity, an industry group dedicated to increasing the representation of minority and women in the securities industry.

Freedom of Information Act and Privacy Act

The Office of Freedom of Information Act (FOIA) and Privacy Act Operations responded to requests for access to information under FOIA, the Privacy Act, and the Government in the Sunshine Act, and processed requests under the agency's confidential treatment rules. Confidential treatment requests were generally made in connection with proprietary corporate information and evaluated in conjunction with access requests to prevent the unwarranted disclosure of information exempt under the FOIA.

All responses to FOIA, Privacy Act, and Government in the Sunshine Act requests were made within the statutory time frame.

Administrative Support

Commission Operations

For the fifteenth consecutive year the SEC collected revenue in excess of its appropriation. The SEC's total revenue was \$990.4 million, 324 percent of its \$305.4 million appropriation. The \$990.4 million in total revenue, minus the SEC's current year spending authority of \$260.4 million (\$305.4 million less \$45 million from prior year offsetting collections) and \$99.9 million in excess offsetting collections, resulted in a net gain to the United States Treasury of \$630.1 million. Fee revenue was collected from four basic sources: securities registrations (64 percent of total 1997 fee collections), transactions of covered exchange-listed and "off-exchange last sale reported" securities (28 percent), tender offer and merger filings (6 percent), and miscellaneous filings (less than 2 percent). Offsetting fee collections were generated from two of the sources. The first source was an increase in the fee rate for registration statements under section 6(b) of the Securities Act from one-fiftieth of one percent to one-thirty-third of one percent. The second source was a new fee of one-three-hundredth of one percent on transactions of "off-exchange" trades of securities.

Financial Management

Throughout the year several financial initiatives occurred that will have lasting impacts on SEC fees and administrative processes. For example, the SEC:

- eliminated all regulatory fees previously adopted pursuant to the Independent Officers Appropriations Act;
- received new offsetting collection authority in Title IV of the National Securities Markets Improvement Act of 1996; and

- began a substantial effort to migrate its existing in-house payroll system and operations to an outside service provider.

Information Resources Management

During the year, the SEC contracted with an outside consultant to perform an independent review of the operations of the Office of Information Technology. The goal of the study was to examine the feasibility of outsourcing many of the operational activities currently performed in-house and refocus information technology staff resources on core functions and more strategic areas such as capital planning, technical architecture, project management, security, technical engineering, contract management, quality assurance, and customer service. Based in large part on this review, a major restructuring of the Office of Information Technology is underway. The new organization will be staffed through a phased approach that will span up to a 12-15 month period beginning in December 1997.

The Office of Information Technology continued to address the critical data management problem presented by the year 2000. The project team within the Office of Information Technology completed an inventory and first level assessment of all central systems, and prioritized each system into a mission-critical or non-mission-critical category. The team also conducted a second level assessment of the systems to identify those that are already year 2000 compliant; should be eliminated, replaced, or rewritten; or need further assessment and possible remediation. The SEC's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system is among those systems that are compliant and therefore presents no problems or issues to the filing community or to the users of EDGAR data.

The EDGAR System

In October 1996, the SEC issued a Request for Proposals (RFP) on privatization and the continued operation and modernization of the EDGAR system. All respondents were to address the two major requirements of Phase 1: (1) a comprehensive conceptual plan for the privatization and modernization of EDGAR; and (2) the demonstrated

capability to operate, enhance, and maintain the existing system at a reasonable cost during the transition to a modernized EDGAR system.

The SEC staff prepared an analysis of the responses to the RFP and presented it to the Office of Management and Budget and Congress. Subsequently, in September 1997, the SEC released a report entitled, *Report to the Congress on Section 107 of the National Securities Markets Improvement Act of 1996 - Privatization of EDGAR*. The report concluded that, for a minimum of three years from the date of award of a new contract, EDGAR privatization should remain as it currently stands: offerors may construct and operate a privatized EDGAR dissemination subsystem.

On October 10, 1997, the SEC released to all offerors in the Phase 1 competitive range, a Phase 2 RFP outlining the privatization ground rules. The Phase 2 RFP also provided specific direction regarding EDGAR's next generation document structure. The SEC anticipates a contract award in the second quarter of 1998.

The agency's internet website (<http://www.sec.gov>) continued to provide the public with basic access to the EDGAR database of electronic filings on a 24-hour delayed basis, and served as a forum for litigation releases, news digests, press releases, Commission rulemaking activities, and a wide range of other information of interest to the investing public. The system continued to experience very heavy usage, servicing over 122 million files and 3.5 billion bytes of data to the public. This amounted to nearly 1,100,000,000 pages of text. The site averaged 335,000 files downloaded per day.

Work continued on the agency's strategic automation initiatives. The SEC implemented client-server based proceedings tracking systems; developed correspondence tracking systems for internal office operations; and began implementing a document management architecture for Commission electronic materials. Work also progressed on the development of an agency-wide casetracking system to track investigative and legal matters.

The information technology staff made significant progress towards implementing OMB Circular 96-02, *Data Center Consolidation*. The staff

prepared a cost analysis of four alternatives to the SEC's existing mainframe operations and management. The replacement of the Commission's existing mainframe with new technology was the most cost-effective alternative. The Office of Management and Budget reviewed the SEC's recommendations and approved a five-year experimental program.

Administrative and Personnel Management

The Office of Administrative and Personnel Management provided a wide range of personnel and office support functions. For example, the staff:

- developed and began implementing the agency's Welfare to Work Program;
- coordinated the agency's first Balancing Work and Family Life Resource Fair to provide employees with a wide range of information on childcare and eldercare resources, stress and time management, healthy lifestyles through nutrition and fitness, transportation assistance, and other related topics;
- participated in job fairs and on-campus recruitment interviews at law schools, produced a revised *Legal Opportunities at the SEC* recruitment brochure, and used various hiring programs and authorities to increase diversity in the agency (a total of 26 percent of new hires were minorities, including 19 percent of new attorneys and law clerks, 11 percent of new accountants, and 29 percent of new securities compliance examiners);
- coordinated training programs for 2,139 employees, who attended 4,930 training events;
- participated actively in a consortium of federal agencies in sponsoring a series of National Academy of Public Administration studies focusing on innovative human resources practices; and
- administered 14 leases totaling approximately 828,500 square feet.

Public Reference

The SEC maintains public reference rooms in its offices in Washington, D.C., New York, and Chicago. During the year, 34,930 visitors used the Commission's public reference rooms. A total of 160,366 paper documents and 645,438 microfiche records were added to the existing library of information made available to the public. At these facilities, the public can examine and review Commission rules, orders, studies, reports, and speeches made by SEC officials.

Endnotes

¹*SEC v. Charles O. Huttoe*, Litigation Release No. 15154 (Nov. 7, 1996), 63 SEC Docket 528.

²*SEC v. Merle S. Finkel*, Litigation Release No. 15286, (Mar. 12, 1997), 63 SEC Docket 528.

³*SEC v. George Chelekis, et al.*, Litigation Release No. 15264 (Mar. 12, 1997), 63 SEC Docket 2900.

⁴*SEC v. First Interregional Advisors Corporation*, Litigation Release No. 15276 (Mar. 7, 1997), 64 SEC Docket 229.

⁵*SEC v. Global Financial Traders, Ltd.*, Litigation Release No. 15291 (Mar. 14, 1997), 64 SEC Docket 402.

⁶*In the Matter of The City of Syracuse, New York*, Release No. 34-39149 (Sept. 30, 1997), 65 SEC Docket 1555.

⁷*In the Matter of Smith Barney, Inc.*, Release No. 34-39118 (Sept. 23, 1997), 65 SEC Docket 1338.

⁸*SEC v. C.S. First Boston Corporation*, Litigation Release No. 15160 (Nov. 20, 1996), 63 SEC Docket 778.

⁹*SEC v. Fabri-Centers of America, Inc.*, Litigation Release No. 15260 (Feb. 18, 1997), 63 SEC Docket 2697.

¹⁰*In the Matter of W.R. Grace & Co.*, Release No. 34-39156 (Feb. 18, 1997), 65 SEC Docket 2697.

¹¹*In the Matter of W.R. Grace & Co.*, Release No. 34-39157 (Sept. 30, 1997), 65 SEC Docket 1573.

¹²*SEC v. Ferrofluidics Corporation*, Litigation Release No. 15508 (Sept. 25, 1997), 65 SEC Docket 1451.

¹³*SEC v. Montedison, S.p.A.*, Litigation Release No. 15164 (Nov. 21, 1996), 63 SEC Docket 783.

¹⁴*SEC v. Triton Energy Corporation*, Litigation Release No. 15266 (Feb. 27, 1997), 63 SEC Docket 2901.

¹⁵*SEC v. Roy Handojo*, Litigation Release No. 15492 (Sept. 15, 1997), 65 SEC Docket 1235.

¹⁶*SEC v. Frederick Liu*, Litigation Release No. 15397 (June 26, 1997), 64 SEC Docket 2208.

¹⁷*SEC v. One Unknown Purchaser of the Call Options of APL Limited*, Litigation Release No. 15334 (Apr. 15, 1997), 64 SEC Docket 965.

¹⁸*SEC v. Emanuel Pinez*, Litigation Release No. 15258 (Feb. 14, 1997), 63 SEC Docket 2695.

¹⁹*In the Matter of Stock Clearing Corp. of Philadelphia*, Release No. 34-38918 (Aug. 11, 1997), 65 SEC Docket 464.

²⁰*In the Matter of Timothy J. Guiheen*, Release No. 34-38917 (Aug. 11, 1997), 65 SEC Docket 459.

²¹*In the Matter of William N. Briggs*, Release No. 34-38919 (Aug. 11, 1997), 65 SEC Docket 481.

²²*Criminal and Public Administrative and Cease and desist Proceedings Against 45 In Connection with Kickback Schemes*, Release No. 34-37807 (Oct. 10, 1996), 62 SEC Docket 3027.

²³*In the Matter of John L. Banach*, Release No. 34-38079 (Dec. 23, 1996), 63 SEC Docket 1431.

²⁴*In the Matter of Steven Ira Wertman*, Release No. 34-38751 (June 20, 1997), 64 SEC Docket 2119.

²⁵*In the Matter of Thomas John Cloutier*, Release No. 34-38946 (Aug. 18, 1997), 65 SEC Docket 563.

²⁶*In the Matter of H. Beck, Inc.*, Release No. 34-38913 (Aug. 11, 1997), 65 SEC Docket 457.

²⁷*SEC v. Sterling Foster & Co., Inc.*, Litigation Release 15261 (Feb. 18, 1997), 63 SEC Docket 2698.

²⁸*In the Matter of Royal Alliance Associates, Inc.*, Release No. 34-38174 (Jan. 15, 1997), 63 SEC Docket 1843.

²⁹*In the Matter of GKN Securities Corp.*, Release No. 34-38173 (Jan. 15, 1997), 63 SEC Docket 1834.

³⁰*In the Matter of Oakwood Counselors, Inc.*, Release No. IA-1614 (Feb. 10, 1997), 63 SEC Docket 2485.

³¹*In the Matter of Parnassus Investments*, Release No. IA-1634, (May 28, 1997), 64 SEC Docket 1830.

³²*SEC v. John Gardner Black*, Litigation Release No. 15511 (Sept. 26, 1997), 65 SEC Docket 2048.

³³*In the Matter of Ronald V. Speaker*, Release No. IA-1605 (Jan. 13, 1997), 63 SEC Docket 1892.

³⁴*In the Matter of Alliance Capital Management, L.P.*, Release No. IA-1630 (Apr. 28, 1997), 64 SEC Docket 1276.

³⁵*In the Matter of Fundamental Portfolio Advisors, Inc.*, Release No. 34-39158 (Sept. 30, 1997), 65 SEC Docket 1593.

³⁶*In the Matter of Mitchell Hutchins Asset Management Inc.*, Release No. 34-39001 (Sept. 2, 1997), 65 SEC Docket 838.

³⁷Release No. 34-38672 (May 23, 1997), 62 FR 30485 (June 4, 1997).

³⁸Release No. 34-39032 (Sept. 9, 1997), 62 FR 48683 (Sept. 16, 1997) (regarding CBOE-96-79, PCX-97-09, and AMEX-96-19).

³⁹Release Nos. 34-38710 (June 2, 1997), 62 FR 31638 (June 10, 1997) (regarding AMEX-97-21); 34-38709 (June 2, 1997), 62 FR 31643 (June 10, 1997) (regarding CBOE-97-17); 34-38729 (June 10, 1997), 62 FR 32669 (June 16, 1997) (regarding NASD-97-14).

⁴⁰Release Nos. 34-38542 (Apr. 23, 1997), 62 FR 23521 (Apr. 30, 1997) (regarding NYSE-97-05); 34-38541 (Apr. 23, 1997), 62 FR 23516 (Apr. 30, 1997) (regarding CBOE-97-14).

⁴¹Release No. 34-39115 (Sept. 22, 1997), 62 FR 50966 (Sept. 29, 1997) (regarding CBOE-96-75).

⁴²Release No. 34-39116 (Sept. 22, 1997), 62 FR 50970 (Sept. 29, 1997) (regarding CBOE-96-76).

⁴³Release Nos. 34-38307 (Feb. 19, 1997), 62 FR 8469 (Feb. 25, 1997) (regarding AMEX-97-04); 34-38963 (May 29, 1997), 62 FR 30914 (June 5, 1997) (regarding AMEX-97-15); 34-38968 (Aug. 25, 1997), 62 FR 46390 (Sept. 2, 1997) (regarding AMEX-97-31); 34-39253 (Oct. 17, 1997), 62 FR 55442 (Oct. 24, 1997) (regarding AMEX-97-35); 34-38353 (Feb. 28, 1997), 62 FR 10888 (Mar. 10, 1997) (regarding CBOE-96-59); 34-39244 (Oct. 15, 1997), 62 FR 55289 (Oct. 23, 1997) (regarding CBOE-97-25); 34-39011 (Sept. 3, 1997), 62 FR 47840 (Sept. 11, 1997) (regarding CBOE-97-26); 34-39012 (Sept. 3, 1997), 62 FR 47850 (Sept. 11, 1997) (regarding CBOE-97-27); 34-39013 (Sept. 3, 1997), 62 FR 47845 (Sept. 11, 1997) (regarding CBOE-97-28); 34-39087 (Sept. 17, 1997), 62 FR 50422 (Sept. 25, 1997) (regarding PCX-97-29); 34-38081 (Dec. 23, 1996), 62 FR 138 (Jan. 2, 1997) (regarding PCX-96-40); 34-38207 (Jan. 27, 1997), 62 FR 5268 (Feb. 4, 1997) (regarding PHLX-97-02).

⁴⁴Release No. 34-35124 (Dec. 20, 1994), 59 FR 66702 (Dec. 28, 1994).

⁴⁵Release Nos. 34-27445 (Nov. 16, 1989), 54 FR 48703 (Nov. 24, 1989); 34-29185 (May 9, 1991), 56 FR 22490 (May 15, 1991).

⁴⁶Letters regarding: (1) TradeWeb LLC (June 13, 1997), (2) Niphix Investments Inc. (Dec. 19, 1996), and (3) Bloomberg Tradebook LLC (Dec. 3, 1996). The Niphix letter also provided relief with respect to registration as a securities information processor under Section 11A of the Exchange Act and as a clearing agency under Section 17A of the Exchange Act.

⁴⁷Letter regarding Intervest Financial Services, Inc., dated Jan. 13, 1997 (trading of U.S. Treasury and foreign government securities).

⁴⁸Letters regarding Chicago Board Brokerage, Inc., dated Sept. 12, 1997 and National Partnership Exchange, Inc., dated July 18, 1997.

⁴⁹Letter regarding The Flamemaster Corporation, dated Oct. 29, 1996. The staff noted in this no-action letter that it would no longer respond to no-action requests with respect to systems that were substantially similar to the issues presented in the Flamemaster scenario or two other recent no-action letters for Real Goods Trading Corp. (June 24, 1996) and PerfectData Corp. (Aug. 5, 1996).

⁵⁰Release No. 34-38139 (Jan. 8, 1997), 62 FR 1385 (Jan. 10, 1997).

⁵¹Release Nos. 34-38246 (Feb. 5, 1997), 62 FR 6468 (Feb. 12, 1997); Release No. 34-38490 (Apr. 9, 1997), 62 FR 18514 (Apr. 16, 1997); Release No. 34-38870 (July 24, 1997), 62 FR 40732 (July 30, 1997).

⁵²Release No. 34-38067 (Dec. 20, 1996), 62 FR 520 (Jan. 3, 1997), effective Mar. 4, 1997. In March 1997, the Commission issued a release making technical revisions to Regulation M. Release No. 34-38363 (Mar. 4, 1997), 62 FR 11321 (Mar. 12, 1997).

⁵³Release No. 34-38068 (Dec. 20, 1996), 61 FR 68587 (Dec. 30, 1996).

⁵⁴Release No. 34-38793 (June 30, 1997), 62 FR 36596 (July 8, 1997) (regarding S7-24-89).

⁵⁵Release No. 34-39076 (Sept. 15, 1997), 62 FR 49270 (Sept. 19, 1997) (regarding CHX-97-06).

⁵⁶Letter regarding John M. McNally, Esq., dated July 3, 1997.

⁵⁷Letter from Robert Colby, Deputy Director, Division of Market Regulation, Securities and Exchange Commission, to Richard Shilts, Acting Director, Market Analysis Section, Commodity Futures Trading Commission, dated July 15, 1997.

⁵⁸Letter from Howard Kramer, Senior Associate Director, Division of Market Regulation, Securities and Exchange Commission, to David Merrill, Deputy General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, dated July 30, 1997.

⁵⁹Letter from Richard Lindsey, Director, Division of Market Regulation, Securities and Exchange Commission, to Richard Shilts, Acting Director, Market Analysis Section, Commodity Futures Trading Commission, dated Aug. 28, 1997.

⁶⁰Release No. 34-38245 (Feb. 5, 1997), 62 FR 6469 (Feb. 12, 1997).

⁶¹Release No. 34-38248 (Feb. 6, 1997), 62 FR 7474 (Feb. 12, 1997).

⁶²Letter from Michael A. Macchiaroli, Associate Director, Division of Market Regulation, Securities and Exchange Commission, to Raymond J. Hennessy, Vice President, New York Stock Exchange, Inc., dated Dec. 30, 1996.

⁶³Release No. 34-37850 (Oct. 22, 1996), 61 FR 55593 (Oct. 28, 1996).

⁶⁴Letter regarding Securities Activities of U.S.-Affiliated Foreign Dealers, dated Apr. 9, 1997.

⁶⁵Letter regarding Morgan Stanley India Pvt. Ltd., dated Dec. 20, 1996.

⁶⁶15 U.S.C. §§ 6101-08 (1996).

⁶⁷Release No. 34-38480 (Apr. 7, 1997), 62 FR 18666 (Apr. 16, 1997).

⁶⁸Letter regarding Angel Capital Electronic Network, dated Oct. 25, 1996.

⁶⁹Letter regarding Charles Schwab & Co., Inc., dated Nov. 27, 1996.

⁷⁰Release No. 34-38807 (July 1, 1997), 64 SEC Docket 2292.

⁷¹Release No. 34-38635 (May 14, 1997), 64 SEC Docket 1498.

⁷²See, *e.g.*, letters regarding Boliden Limited, dated June 5, 1997; Canadian Hotel Income Properties, dated June 24, 1997; Laidlaw Inc., dated July 2, 1997; Avista Real Estate Investment Trust, dated July 21, 1997; and Canadian Fracmaster Ltd., dated Aug. 15, 1997.

⁷³Letter regarding U.S. Treasury Inflation Indexed Securities, dated Jan. 17, 1997).

⁷⁴Letter regarding Rule 10b-10/Average Price, Multiple Capacity Confirmations, dated May 6, 1997.

⁷⁵Letter regarding MBS Clearing Corporation, dated June 27, 1997.

⁷⁶Release No. 34-39176 [File No. S7-21-96], 62 FR 52229 (Oct. 7, 1997).

⁷⁷Release Nos. 34-38221 (Jan. 31, 1997), 62 FR 5871 (Feb. 7, 1997) (regarding PHLX-97-03); 34-38221 (Jan. 31, 1997), 62 FR 5871 (Feb. 7, 1997) (regarding BSE-96-12); 34-38221 (Jan. 31, 1997), 62 FR 5871 (Feb. 7, 1997) (regarding CHX-96-33); 34-38221 (Jan. 31, 1997), 62 FR 5871

(Feb. 7, 1997) (regarding AMEX-96-49); 34-38221 (Jan. 31, 1997), 62 FR 5871 (Feb. 7, 1997) (regarding NYSE-96-38).

⁷⁸Release Nos. 34-38897 (Aug. 1, 1997), 62 FR 42847 (Aug. 8, 1997) (regarding NYSE-97-21); 34-38704 (May 30, 1997), 62 FR 31467 (June 9, 1997) (regarding CHX-97-11); 34-38590 (May 9, 1997), 62 FR 26832 (May 15, 1997) (regarding CHX-97-08); 34-38779 (June 26, 1997), 62 FR 36087 (July 3, 1997) (regarding PHLX-97-27); 34-38780 (June 26, 1997), 62 FR 36087 (July 3, 1997) (regarding PCX-97-15).

⁷⁹Release No. 34-39086 (Sept. 17, 1997), 62 FR 50036 (Sept. 24, 1997) (regarding PCX-97-18).

⁸⁰Release No. 34-38960 (Aug. 22, 1997), 62 FR 45904 (Aug. 29, 1997) (regarding PHLX-97-31).

⁸¹Release No. 34-38961 (Aug. 22, 1997), 62 FR 45895 (Aug. 29, 1997) (regarding NASD-97-16).

⁸²Release No. 34-38908 (Aug. 7, 1997), 62 FR 43385 (Aug. 13, 1997) (regarding NASD-97-28).

⁸³Release No. 34-388845 (July 17, 1997), 62 FR 39564 (July 23, 1997) (regarding NASD-97-37).

⁸⁴Release No. 34-38890 (Aug. 25, 1997), 62 FR 47096 (Sept. 5, 1997).

⁸⁵Release No. 34-39120, (Sept. 15, 1997) 62 FR 51170 (Sept. 30, 1997).

⁸⁶Release No. 34-38456 (Mar. 31, 1997), 62 FR 16635 (Apr. 7, 1997) (regarding NASD-97-7).

⁸⁷Release No. 34-39285 (Oct. 29, 1997), 62 FR 59932 (Nov. 5, 1997) (regarding NASD-97-26).

⁸⁸Release Nos. 34-38365 (Mar. 5, 1997), 62 FR 11235 (Mar. 11, 1997) (regarding MSRB-97-2); 34-38162 (Jan. 13, 1997), 62 FR 3069 (Jan. 21,

1997) (regarding MSRB-96-13); 34-37997 (Nov. 29, 1996), 61 FR 64781 (Dec. 6, 1996) (regarding MSRB 96-11).

⁸⁹Release No. 34-37998 (Nov. 29, 1996), 61 FR 64782 (Dec. 6, 1996) (regarding MSRB-96-10).

⁹⁰Release No. 34-38810 (July 1, 1997), 62 FR 37093 (July 10, 1997).

⁹¹Release Nos. 34-38328 (Feb. 24, 1997), 62 FR 9225 (Feb. 28, 1997); 34-38329 (Feb. 24, 1997) 62 FR 9222 (Feb. 28, 1997).

⁹²Release No. 34-38589 (May 9, 1997), 62 FR 26833 (May 15, 1997).

⁹³Release No. 34-38564 (Apr. 30, 1997), 62 FR 25008 (May 7, 1997).

⁹⁴Release No. 34-39096 (May 14, 1997), 62 FR 27821 (May 21, 1997).

⁹⁵Release No. IC-22528 (Feb. 27, 1997), 62 FR 10898 (Mar. 10, 1997).

⁹⁶Release No. IC-22529 (Feb. 27, 1997), 62 FR 10943 (Mar. 10, 1997).

⁹⁷Release No. IC-22530 (Feb. 27, 1997), 62 FR 10955 (Mar. 10, 1997).

⁹⁸Release No. IC-22405 (Dec. 18, 1996), 61 FR 68100 (Dec. 26, 1996); Release No. IC-22597 (Apr. 3, 1997), 62 FR 17512 (Apr. 9, 1997).

⁹⁹Release No. IC-22775 (July 31, 1997), 62 FR 42401 (Aug. 7, 1997).

¹⁰⁰Release No. IC-22383 (Dec. 10, 1996), 61 FR 66621 (Dec. 18, 1996).

¹⁰¹Release No. IC-21837 (Mar. 21, 1996), 61 FR 13956 (Mar. 28, 1996).

¹⁰²Release No. IC-22383 (Dec. 10, 1996), 61 FR 66621 (Dec. 18, 1996).

¹⁰³Release No. IC-22658 (May 12, 1997), 62 FR 26923 (May 16, 1997).

¹⁰⁴Release No. IC-22747 (July 14, 1997), 62 FR 38495 (July 18, 1997); Release No. IC-22815 (Sept. 10, 1997), 62 FR 47934 (Sep. 12, 1997).

¹⁰⁵Release No. IC-22835 (Sept. 26, 1997), 62 FR 51762 (Oct. 3, 1997).

¹⁰⁶*Id.*

¹⁰⁷*See, e.g., The Park Avenue Portfolio*, Release Nos. IC-22561 (Mar. 13, 1997), 62 FR 13410 (Mar. 20, 1997) (notice) and IC-22607 (Apr. 8, 1997) (order); and *The Offitbank Investment Fund*, Release Nos. IC-22441 (Jan. 6, 1997), 62 FR 1783 (Jan. 13, 1997) (notice) and IC-22489 (Feb. 3, 1997) (order).

¹⁰⁸*See SBSF Funds, Inc.*, Release Nos. IC-22486 (Jan. 30, 1997), 62 FR 5659 (Feb. 6, 1997) (notice) and IC-22526 (Feb. 25, 1997) (order).

¹⁰⁹Dean Witter Discover & Co.; Morgan Stanley Group Inc. (pub. avail. Apr. 18, 1997).

¹¹⁰Goodwin, Proctor & Hoar (pub. avail. Feb. 28, 1997).

¹¹¹Charles Schwab & Co., Inc. (pub. avail. July 7, 1997).

¹¹²Lamp Technologies, Inc. (pub. avail. May 29, 1997).

¹¹³Merrill Lynch Asset Management (pub. avail. Apr. 28, 1997).

¹¹⁴The Dessauer Global Equity Fund (pub. avail. Apr. 3, 1997).

¹¹⁵INVESCO (pub. avail. Aug. 5, 1997).

¹¹⁶Release No. 33-7438 (Aug. 20, 1997), 62 FR 45359 (Aug. 27, 1997).

¹¹⁷Aetna Life Insurance and Annuity Company (pub. avail. Jan. 6, 1997).

¹¹⁸State Farm Life Insurance Company (pub. avail. Oct. 24, 1997).

¹¹⁹Valley Forge Life Insurance Company (pub. avail. Jan. 30, 1997).

¹²⁰Release No. IA-1633 (May 15, 1997), 62 FR 28112 (May 22, 1997).

¹²¹Association for Investment Management and Research (pub. avail. Dec. 18, 1996).

¹²²Cambiar Investors, Inc. (pub. avail. Aug. 28, 1997).

¹²³Morgan Lewis & Bockius (pub. avail. Apr. 16, 1997).

¹²⁴*TUC Holding Company*, Release Nos. 35-26607 (Nov. 15, 1996), 61 FR 59259 (Nov. 21, 1996) (notice) and 35-26749 (Aug. 1, 1997) (order).

¹²⁵*New Century Energies, Inc.*, Release Nos. 35-26497 (Mar. 22, 1996), 61 FR 13901 (Mar. 28, 1996) (notice) and 35-26748 (Aug. 1, 1997) (order).

¹²⁶*Houston Industries Incorporated*, Release Nos. 35-26594 (Oct. 18, 1996), 61 FR 55331 (Oct. 25, 1996) (notice) and 35-26744 (July 24, 1997) (order).

¹²⁷*Central and South West Corporation*, Release Nos. 35-26503 (Apr. 12, 1996), 61 FR 17333 (Apr. 19, 1996) (notice) and 35-26653 (Jan. 24, 1997) (order).

¹²⁸*Consolidated Natural Gas Company*, Release Nos. 35-26470 (Feb. 9, 1996), 61 FR 6046 (Feb. 15, 1996) (notice) and 35-26595 (Oct. 25, 1996) (order).

¹²⁹Release No. 35-26667 (Feb. 14, 1997), 62 FR 7900 (Feb. 20, 1997).

¹³⁰Release No. 33-7431 (July 18, 1997), 65 SEC Docket 1.

¹³¹Release No. 33-7380 (Jan. 14, 1997), 63 SEC Docket 14.

¹³²Release No. 33-7419 (May 8, 1997), 64 SEC Docket 10.

¹³³Release No. 33-7392 (Feb. 20, 1997), 63 SEC Docket 19.

¹³⁴Release No. 33-7470 (Oct. 10, 1997), 65 SEC Docket 13.

¹³⁵Release No. 33-7393 (Feb. 20, 1997), 63 SEC Docket 19.

¹³⁶Release No. 33-7386 (Jan. 28, 1997), 63 SEC Docket 17.

¹³⁷Release No. 33-7390 (Feb. 20, 1997), 63 SEC Docket 19.

¹³⁸Release No. 33-7391 (Feb. 20, 1997), 63 SEC Docket 19.

¹³⁹Release No. 34-39093 (Sept. 18, 1997), 65 SEC Docket 9.

¹⁴⁰Release No. 33-7418 (Apr. 30, 1997), 64 SEC Docket 9.

¹⁴¹Release No. 33-7427 (July 1, 1997), 64 SEC Docket 18.

¹⁴²Release No. 33-7424 (June 25, 1997), 64 SEC Docket 17.

¹⁴³Release No. 33-7386 (Jan. 31, 1997), 63 SEC Docket 2182.

¹⁴⁴Questions and Answers about the New “Market Risk” Disclosure Rules (July 31, 1997).

¹⁴⁵Statement of Financial Accounting Standards No. 131, *Disclosures about Segments of an Enterprise and Related Information* (June 1997).

¹⁴⁶Statement of Financial Accounting Standards No. 128, *Earnings Per Share* (Feb. 1997).

¹⁴⁷Statement of Financial Accounting Standards No. 129, *Disclosure of Information About Capital Structure* (Feb. 1997).

¹⁴⁸Draft Proposed Statement of Financial Accounting Standards, *Accounting for Derivative and Similar Financial Instruments and for Hedging Activities* (Aug. 29, 1997).

¹⁴⁹Statement of Financial Accounting Standards No. 130, *Reporting Comprehensive Income* (Feb. 1997).

¹⁵⁰Proposed Statement of Financial Accounting Standards, *Employers' Disclosures About Pensions and Other Post-retirement Benefits* (June 30, 1997).

¹⁵¹Statement on Auditing Standards No. 82, *Consideration of Fraud in a Financial Statement of Audit* (Feb. 1997).

¹⁵²Proposed Statement on Standards for Attestation Engagements, *Management's Discussion and Analysis* (Mar. 7, 1997).

¹⁵³Statement of Position 97-2, *Software Revenue Recognition* (Oct. 27, 1997).

¹⁵⁴Leases (Approved Nov. 1997), Segment Reporting (Aug. 1997), Presentation of Financial Statements (Aug. 1997), Earnings Per Share (Feb. 1997), and Income Taxes (Oct. 1996).

¹⁵⁵Intangible Assets; Employee Benefits; Impairment of Assets; Interim Financial Reporting; Discontinuing Operations; and Provisions, Contingent Liabilities, and Contingent Assets.

¹⁵⁶United States Securities and Exchange Commission Report on Promoting Global Preeminence of American Securities Markets (Oct. 1997).

¹⁵⁷117 S.Ct. 2199 (1997).

¹⁵⁸No. 96-6084 (11th Cir.).

¹⁵⁹No. 97-50137 (9th Cir.).

¹⁶⁰No. 97-1315 (4th Cir.).

¹⁶¹No. 96-7794 (2d Cir.).

¹⁶²No. 96-9137 (2d Cir.).

¹⁶³112 F.3d 613 (2d Cir. 1997).

¹⁶⁴No. 96-7900 (2d Cir.).

¹⁶⁵124 F.3d 449 (3d Cir. 1997).

¹⁶⁶970 F.Supp. 746 (N.D. Cal. 1997).

¹⁶⁷No. 97-16240 (9th Cir.).

¹⁶⁸No. 97-16070 (9th Cir.).

¹⁶⁹107 F.3d 1422, *reh'g granted*, 121 F.3d 565 (9th Cir. 1997).

¹⁷⁰121 F.3d 956 (5th Cir. 1997).

¹⁷¹*Solv-Ex Corp. v. SEC*, Bankr. No. 11-97-14361 MA, Adversary No. 97-1159 M (Bankr. N.M.), No. 97-1201 MV/RLP (D. N.M.).

¹⁷²*Honn v. NASD*, Civ. No. 3-96-182 (D. Minn.).

¹⁷³*Desiderio v. NASD*, No. 97-CV-312 (S.D.N.Y.).

¹⁷⁴*Wells v. SEC*, No. 96-6237 (2nd Cir. Aug. 22, 1997).

¹⁷⁵*SEC v. Waltzer & Associates*, No. 96-6261 (2nd Cir. Sept. 10, 1997).

¹⁷⁶*Meyer Blinder*, Release No. 34-39180 (Oct. 1, 1997), 65 SEC Docket 1970.

¹⁷⁷ *Robert I. Moses*, Release No. 34-37795 (Oct. 8, 1996), 62 SEC Docket 3046.

¹⁷⁸ *Benjamin G. Sprecher*, Release No. 34-38485 (Apr. 4, 1997), 64 SEC Docket 720.

¹⁷⁹ *Russell G. Koch*, Release No. 34-38658 (May 20, 1997), 64 SEC Docket 1617.

¹⁸⁰ *Donald A. Roche*, Release No. 34-38742 (June 17, 1997), 64 SEC Docket 2042.

¹⁸¹ *Checkosky v. SEC*, 23 F.3d 452 (D.C. Cir. 1994).

¹⁸² *David J. Checkosky and Norman A. Aldrich*, Release No. 34-38183, Accounting and Auditing Enforcement Release No. 871 (Jan. 21, 1997), 63 SEC Docket 1948, *appeal filed*, No. 97-1137 (D.C. Cir. Mar. 17, 1997).

¹⁸³ *David J. Checkosky and Norman A. Aldrich*, 50 S.E.C. 1180 (1992).

¹⁸⁴ *Robert D. Potts, CPA*, Release No. 34-39126, Accounting and Auditing Enforcement Release No. 964 (Sept. 24, 1997), 65 SEC Docket 1376, *appeal filed*, No. 97-3710 (8th Cir. Oct. 21, 1997).

¹⁸⁵ *C. James Padgett, et al.*, Release No. 34-38423 (Mar. 20, 1997), 64 SEC Docket 319, *appeal filed*, No. 97-1361 (D.C. Cir. May 16, 1997).

¹⁸⁶ *Stephen Thorlief Rangen*, Release No. 34-38486 (Apr. 8, 1997), 64 SEC Docket 731.

¹⁸⁷ *Prime Investors, Inc., Kenneth James Wright, and Michael Lyn Johnson*, Release No. 34-38487 (Apr. 8, 1997), 64 SEC Docket 742.

¹⁸⁸ *In County of Orange*, Case No. 94-22272-JR (Bankr. C.D. Calif.).

¹⁸⁹*In re Grossman's, Inc.*, Case No. 97-695 (PJW) (Bankr. D. Del.).

¹⁹⁰*In re Edison Brothers Stores, Inc.*, Case No. 96-177 (SLR) (D Del.).

¹⁹¹*In re Grossman's Bros, Inc.*, Case No. 97-695 (PJW) (Bankr. D. Del.); *In re Marvel Entertainment Group, Inc.*, Case Nos. 96-2069 through 96-2077 (Bankr. D. Del.); and *In re Payless Cashways Inc.*, Case No. 97-50543-SJ-11 (Bankr. W.D. Ohio).

¹⁹²*In re Sizzler Restaurants International, Inc. et al.*, Case No. SV 96-16075-AG, Jointly Administered with Case Nos. SV 96-16076-AG through SV 96-16079-AG (Bankr. C.D. Cal.).

¹⁹³*In re Home Theater Products International, Inc.*, Case No. SA 96-13754-JR (Bankr. C.D. Cal.).

¹⁹⁴*Munford, Inc. v. Munford*, 98 F.3d 604 (11th Cir. 1996), *cert. denied*, 118 S.Ct. 738 (1998).

¹⁹⁵952 F.2d 1230 (10th Cir. 1991), *cert. denied*, 112 S. Ct. 3015 (1992).

¹⁹⁶*DFA Investment Dimensions Group Inc., et. al v. Munford, Inc.*, No. 97-550; *Munford v. Munford, Inc.*, No. 97-591.

¹⁹⁷*In re Advanced Promotion Technologies, Inc.*, Case No. 06-23875-BKC-RBR (Bankr. S.D. Fla.); *In re Baldwin Builders* and *In re Baldwin Building Contractors, L.P.*, Case Nos. ND 95-13057 RR and ND 95-13058 RR (jointly administered)(Bankr. C.D. Calif.); *In re CliniCorp., Inc.*, Case No. 96-32529-BKC-SHF (Bankr. S.D. Fla.); *In re Reconversion Technologies, Inc.*, Case No. 95-00821-M (Bankr. N.D. Okla.); and *In re Physicians Clinical Laboratory, Inc.*, Case No. SV 96-23185-GM (Bankr. C.D. Calif.).

¹⁹⁸*In re CliniCorp., Inc.*, Case No. 96-32529-BKC-SHF (Bankr. S.D. Fla.); *In re Marvel Entertainment Group, Inc.*, Case Nos. 96-2069 through 96-

2077 (Bankr. D. Del.); *In re PCA Industries, Inc.*, No. 96-41374-293 (Bankr. E.D. Mo.); and *In re Reconversion Technologies, Inc.*, Case No. 95-00821-M (Bankr. N.D. Okla.). In *In re Audre Recognition Systems, Inc.*, Case No. 95-10048-B11 (S.D. Calif.), the court overruled Commission's objection but the offering, nevertheless, failed due to Commission's announced opposition.

¹⁹⁹*In re Advanced Promotion Technologies, Inc.*, Case No. 96-23875-BKC-RBR (Bankr. S.D. Fla.); *In re Comptronix Corporation*, Case No. 396-06840 (Bankr. M.D. Tn.); *In re Baldwin Builders* and *In re Baldwin Building Contractors, L.P.*, Case Nos. ND 95-13057 RR and ND 95-13058 RR (jointly administered) (Bankr. C.D. Calif.); *In re Jayhawk Acceptance Corp.*, Case No. 397-31261-SAF-11 (Bankr. N.D. Tex.); *In re Physicians Clinical Laboratory, Inc.*, Case No. SV 96-23185-GM (Bankr. C.D. Calif.); and *In re Reconversion Technologies, Inc.* Case No. 95-00821-M (Bankr. N.D. Okla.).

²⁰⁰*In re Automotive Credit Finance, Inc.*, Case No. 395-34981 RCM-11 (Bankr. N.D. Tex.); *In re North Atlantic Technologies, Inc.*, Case No. 96-30526 (Bankr. D. Minn.); *In re St. Louis Leasing Corp.* No. 96-40001-293 (Bankr. E.D. Mo.); *In re Sybaris Clubs Int'l, Inc.*, Case No. 94-B-16498 (Bankr. N.D. Ill.); and *In re Rexon, Inc.*, Case No. 95-19439 CEM (Bankr. D. Col.).

²⁰¹*In re Apogee Robotics, Inc.*, Case No. 94-22193-CEM (Bankr. D. Colo.); *In re Comptronix Corp.*, Case No. 396-06840 (Bankr. M.D. Tenn.); *In re Packaging Research Corp.*, Case No. 97-12748-CEM (Bankr. D. Colo.); *In re PCA Industries, Inc.*, Case No. 96-41374-293 (Bankr. E.D. Mo.); *In re Protech, Inc.*, Case No. 97-60905-LK (Bankr. D. Colo.); and *In re Sunrise Energy Services, Inc.*, Case No. 395-34176-SAF-11 (Bankr. N.D. Tex.).

²⁰²*In re Bilzerian*, No. 96-513-CIV-T-23B (M.D. FL).

²⁰³*SEC v. Bilzerian*, No. 96-3634.

²⁰⁴*In re Cross v. SEC*, No. SA-95-15228-JB, Adv. No. SA-95-1975 (Bankr. C.D. Cal.).

²⁰⁵*SEC v. Cross*, 203 B.R. 456 (Bankr. C.D. Cal. 1996).

²⁰⁶*SEC v. Cross*, BAP No. CC 96-2167 (1996).

²⁰⁷*In re Hibbard Brown & Co., Inc.*, Case No. 94 B 44809 (CB) (Bankr. S.D. N.Y.).

²⁰⁸*In re Absolute Resource Corp.*, Case No. 396-32263-11 (Bankr. N.D. Tex.).

Table 1
**ENFORCEMENT CASES INITIATED BY THE COMMISSION
DURING FISCAL YEAR 1997 IN VARIOUS PROGRAM AREAS**

(Each case initiated has been included in only one category listed below, even though many cases involve multiple allegations and may fall under more than one category. The number of defendants and respondents is noted parenthetically.)

Program Area in Which a Civil Action or Administrative Proceeding Was Initiated	Civil Actions ^{1/}	Administrative Proceedings	Total	% of Total Cases
Securities Offering Cases	66 (246)	55 (99)	121 (345)	25%
Broker-dealer Cases				
(a) Fraud Against Customer	10 (14)	60 (92)	70 (106)	
(b) Failure to Supervise	0 (0)	6 (8)	6 (8)	
(c) Government Municipal Securities	4 (8)	9 (11)	13 (19)	
(d) Books & Records	2 (4)	3 (6)	5 (10)	
(e) Other	3 (6)	8 (11)	11 (17)	
Total Broker-dealer Cases	19 (32)	86 (128)	105 (160)	21%
Issuer Financial Statement and Reporting Cases				
(a) Issuer Financial Disclosure	30 (83)	60 (79)	90 (162)	
(b) Issuer Reporting Other	0 (0)	6 (6)	6 (6)	
Total Issuer Financial Statement and Reporting Cases	30 (83)	66 (85)	96 (168)	20%
Other Regulated Entity Cases				
(a) Investment Advisers	14 (45)	31 (59)	45 (104)	
(b) Investment Companies	1 (4)	6 (23)	7 (27)	
(c) Transfer Agent	0 (0)	1 (2)	1 (2)	
(d) SROs	0 (0)	3 (4)	3 (4)	
Total Other Regulated Entity Cases	15 (49)	41 (88)	56 (137)	11%
Insider Trading Cases	36 (126)	12 (12)	48 (148)	10%
Market Manipulation Cases	11 (47)	14 (28)	25 (75)	5%
Delinquent Filings				
(a) Issuer Reporting	7 (7)	0 (0)	7 (7)	
(b) Forms 3/4/5	1 (1)	7 (10)	8 (11)	
Total Delinquent Filings Cases	8 (8)	7 (10)	15 (18)	3%
Contempt Proceedings	14 (18)	0 (0)	14 (18)	3%
Related Party Transaction Cases	2 (2)	2 (2)	4 (4)	1%
Miscellaneous	1 (3)	3 (5)	4 (8)	1%
Corporate Control Cases	1 (1)	0 (0)	1 (1)	0%
GRAND TOTAL	203 (615)	286 (457)	489 (1072)	100%

^{1/} This category includes injunctive actions and civil and criminal contempt proceedings.

Table 2
FISCAL 1997 ENFORCEMENT CASES
LISTED BY PROGRAM AREA

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
Broker-Dealer: Books & Records		
<i>In the Matter of Howard F. Rubin</i>	34-38264	02/11/97
<i>In the Matter of James W. Adams</i>	34-38003	10/02/96
<i>In the Matter of Marsh Block & Co., Inc.</i>	34-38263	02/11/97
<i>SEC v. J.W. Korth & Co.</i>	LR-15244	02/04/97
<i>SEC v. W.S. Clearing, Inc.</i>	LR-15281	03/07/97
Broker-Dealer: Failure to Supervise		
<i>In the Matter of Christopher LaPorte</i>	34-39171	09/30/97
<i>In the Matter of First Montauk Securities Corp.</i>	34-38775	06/25/97
<i>In the Matter of Frank Klaus</i>	34-39165	09/30/97
<i>In the Matter of GKN Securities Corp.</i>	34-38173	01/15/97
<i>In the Matter of Lyle Moss</i>	34-38258	02/07/97
<i>In the Matter of Royal Alliance Associates, Inc.</i>	34-38174	01/15/97
Broker-Dealer: Fraud Against Customer		
<i>In the Matter of Alexander Ruge</i>	34-37807	10/10/96
<i>In the Matter of Alfred P. Avasso</i>	34-37807	10/10/96
<i>In the Matter of Andrew Scudiero</i>	34-37807	10/10/96
<i>In the Matter of Bertram Slutzky</i>	34-37807	10/10/96
<i>In the Matter of Brian J. McCahery</i>	34-38176	01/16/97
<i>In the Matter of Carmel Equity Partners</i>	AAER 858	11/18/96
<i>In the Matter of Cary Cimino</i>	34-37807	10/10/96
<i>In the Matter of David Scott Rossman</i>	34-38995	08/29/97
<i>In the Matter of Dennis Lindsay Helliwell</i>	34-38088	12/26/96
<i>In the Matter of Dennis Murray Bissell</i>	34-39108	09/22/97
<i>In the Matter of Donald W. Spinks</i>	34 38510	04/15/97
<i>In the Matter of Edward S. Padnos</i>	34-37807	10/10/96

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
<i>In the Matter of Edward Williamson</i>	34-37807	10/10/96
<i>In the Matter of Euro-Atlantic Securities, Inc.</i>	34-39047	09/10/97
<i>In the Matter of Gamal Marwan</i>	34-37807	10/10/96
<i>In the Matter of Gary J. Divall</i>	34-38578	05/07/97
<i>In the Matter of George A. Rotelli</i>	34-27822	10/15/96
<i>In the Matter of James Zimmerman</i>	34-38227	02/03/97
<i>In the Matter of Jeffrey D. Pokross</i>	34-37807	10/10/96
<i>In the Matter of Jeffrey Trenk</i>	34-37807	10/10/96
<i>In the Matter of Jocelyn Jane O'Rourke</i>	34-39027	09/08/97
<i>In the Matter of John Chapman</i>	34-37807	10/10/96
<i>In the Matter of John L. Bridges, Jr.</i>	34-38957	08/21/97
<i>In the Matter of Joseph B. Johnson</i>	34-39097	09/19/97
<i>In the Matter of Joseph P. Brooks</i>	34-28517	04/16/97
<i>In the Matter of Mark Coleman Graves</i>	34-39152	09/30/97
<i>In the Matter of Michael J. Oberholzer</i>	34-39127	09/25/97
<i>In the Matter of Michael Lapp</i>	34-37807	10/10/96
<i>In the Matter of Miron Leshem</i>	34-37807	10/10/96
<i>In the Matter of Nicholas Giandomenico</i>	34-39003	09/02/97
<i>In the Matter of Norman Lescht</i>	34-37807	10/10/96
<i>In the Matter of Paul D. Blasetti</i>	34-38951	08/19/97
<i>In the Matter of Paul Francis Mabry</i>	34-39163	09/30/97
<i>In the Matter of Penn Capital Financial Services, Inc.</i>	34-39168	09/30/97
<i>In the Matter of Peter M. Harrington</i>	34-38055	10/03/96
<i>In the Matter of R.E. Anderson Cain</i>	34-38122	01/06/97
<i>In the Matter of Richard Cedrone</i>	34-37807	10/10/96
<i>In the Matter of Richard D. Henderson</i>	34-39004	09/02/97
<i>In the Matter of Richard Langley, Jr.</i>	34-37807	10/10/96
<i>In the Matter of Richard Mallion</i>	34-37807	10/10/96
<i>In the Matter of Robert Alan Denton</i>	34-38970	08/26/97
<i>In the Matter of Robert Albert Merrifield</i>	34-38177	01/16/97
<i>In the Matter of Robert Mitchell</i>	34-37807	10/10/96
<i>In the Matter of Robert Thomas Beatty</i>	34-38994	08/29/97
<i>In the Matter of Roland Acevedo</i>	34-37807	10/10/96
<i>In the Matter of Ronald J. Viemont</i>	34-39283	08/18/97
<i>In the Matter of S. Colin</i>	34-38967	08/25/97
<i>In the Matter of Sandra Simpson</i>	34-39154	09/30/97

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<i>In the Matter of Selheimer & Co.</i>	34-38337	02/26/97
<i>In the Matter of Stanley J. Feminella</i>	34-38529	04/21/97
<i>In the Matter of Steve Bingaman</i>	34-37807	10/10/96
<i>In the Matter of Steven Ira Wertman</i>	34-38751	06/20/97
<i>In the Matter of Stuart Gregory Smith</i>	34-38878	07/28/97
<i>In the Matter of Sy Siegel</i>	34-37807	10/10/96
<i>In the Matter of Ted Harold Westerfield</i>	34-38904	08/06/97
<i>In the Matter of Theodore Heitzmann</i>	34-37807	10/10/96
<i>In the Matter of Thomas J. Fox</i>	34-38863	07/23/97
<i>In the Matter of Thomas John Cloutier</i>	34-38946	08/18/97
<i>In the Matter of Vincent Polisen</i>	34-38327	02/24/97
<i>In the Matter of William P. Carroll</i>	33-7434	08/18/97
<i>SEC v. Bernard Zelenka</i>	LR-15489	09/04/97
<i>SEC v. Brett L. Bouchy</i>	LR-15171	12/02/96
<i>SEC v. Clyde Keith LaMonda</i>	LR-15411	07/11/97
<i>SEC v. First Interregional Advisors Corp.</i>	LR-15276	03/06/97
<i>SEC v. Frank S. Colin</i>	LR-15138	10/28/96
<i>SEC v. Joseph C. Kane, Jr.</i>	LR-15348	04/24/97
<i>SEC v. Michael J. Oberholzer</i>	LR-15481	09/09/97
<i>SEC v. R. E. Anderson Cain</i>	LR-15181	12/06/96
<i>SEC v. Robert C. White</i>	LR-15238	01/30/97
<i>SEC v. Stuart Gregory Smith</i>	LR-15420	07/07/97

Broker-Dealer: Government/Municipal Securities

<i>In the Matter of Derek Washington</i>	34-38978	08/27/97
<i>In the Matter of Marion Bass Securities Corp.</i>	34-39170	09/30/97
<i>In the Matter of Mark S. Ferber</i>	34-38102	12/19/96
<i>In the Matter of Michael Lissack</i>	34-39119	09/23/97
<i>In the Matter of Mitchell Hutchins Asset Management, Inc.</i>	34-39001	09/02/97
<i>In the Matter of Peacock, Hislop, Staley & Given, Inc.</i>	34-37777	10/02/96
<i>In the Matter of Robert D. Gersh</i>	34-38459	04/01/97
<i>In the Matter of Smith Barney, Inc.</i>	34-39118	09/23/97
<i>In the Matter of Willie Daniels</i>	34-38977	08/27/97

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<i>SEC v. First Boston Corp.</i>	LR-15160	11/20/96
<i>SEC v. First California Capital Markets Group, Inc.</i>	LR-15423	07/28/97
<i>SEC v. Joseph P. Galluzzi</i>	LR-15211	01/09/97
<i>SEC v. Mark S. Ferber</i>	LR-15193	12/19/96

Broker-Dealer: Other

<i>In the Matter of Americorp Securities, Inc.</i>	34-38947	08/18/97
<i>In the Matter of Dennis T. Palmeri, Sr.</i>	34-38497	04/10/97
<i>In the Matter of Gerald P. Hirsch</i>	34-39123	09/24/97
<i>In the Matter of Jaron Equities Corp.</i>	34-38475	04/03/97
<i>In the Matter of Juergens Otto Winkler</i>	34-39042	09/10/97
<i>In the Matter of National Financial Services Corp.</i>	34-38150	01/10/97
<i>In the Matter of Rodney B. Hedges</i>	34-39078	09/15/97
<i>In the Matter of Steven A. Lapper</i>	34-38028	12/09/96
<i>SEC v. Gerald P. Hirsch</i>	LR-15176	12/04/96
<i>SEC v. Michelle P. Suppes</i>	LR-15316	04/04/97
<i>SEC v. Timothy A. Hills</i>	LR-15313	04/02/97

Contempt-Civil

<i>SEC v. Charles E. Smith</i>	None	09/30/97
<i>SEC v. Frank J. Custable</i>	None	01/31/97
<i>SEC v. Geoffrey Adams</i>	None	12/11/96
<i>SEC v. Gerald Hirsch</i>	None	03/25/97
<i>SEC v. J. Scott Eskind</i>	None	09/16/97
<i>SEC v. James S. Faller</i>	None	06/04/97
<i>SEC v. Jay R. Bishop</i>	LR-15347	04/21/97
<i>SEC v. Kathryn Casperson</i>	None	03/03/97
<i>SEC v. Machlene Soderquest</i>	None	11/12/96
<i>SEC v. Michael J. Colello</i>	LR-15142	10/22/96
<i>SEC v. Michael J. Randy</i>	LR-15463	08/05/97
<i>SEC v. Robert J. Carlo</i>	None	02/11/97

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
<i>SEC v. Robert L. Gunther</i>	None	01/09/97
<i>SEC v. Rolon Colon</i>	None	05/16/97

Corporate Control

<i>SEC v. RBF International Inc.</i>	LR-15213	01/14/97
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Delinquent Filings: Forms 3/4/5

<i>In the Matter of Cortland First Financial, Corp.</i>	34-38192	01/22/97
<i>In the Matter of Herbert G. Brown</i>	34-38666	05/22/97
<i>In the Matter of Jerry Silva</i>	34-328228	02/03/97
<i>In the Matter of Mark S. Chanko</i>	34-39146	09/29/97
<i>In the Matter of Nycal Corp.</i>	34-39125	09/24/97
<i>In the Matter of Ronald W. Daw</i>	34-38477	04/04/97
<i>In the Matter of Steven K. Clark</i>	34-38476	04/04/97
<i>SEC v. Parris H. Holmes, Jr.</i>	LR-15190	12/18/96

Delinquent Filings: Issuer Reporting

<i>SEC v. Airship International Ltd.</i>	LR-15454	08/21/97
<i>SEC v. American Education Corp.</i>	LR-15167	11/26/96
<i>SEC v. BioCoral Inc.</i>	LR-15422	07/25/97
<i>SEC v. Digital Products Corp.</i>	LR-15252	02/11/97
<i>SEC v. J.R. Consulting Inc.</i>	LR-15350	04/24/97
<i>SEC v. Nycal Corp.</i>	LR-15367	05/15/97
<i>SEC v. Tianrong Building Material Holdings Ltd.</i>	LR-15165	11/22/96

Insider Trading

<i>In the Matter of Cecil H. Suter</i>	IA-1610	01/23/97
<i>In the Matter of David P. Schwartz</i>	34-38135	01/08/97
<i>In the Matter of David Schaen</i>	34-38347	02/27/97
<i>In the Matter of Fox-Pitt, Kelton, Inc.</i>	34-37940	11/12/96
<i>In the Matter of James L. D'Angelo</i>	34-38524	04/18/97
<i>In the Matter of Janak C. Patel</i>	34-38496	04/10/97

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<i>In the Matter of Jeffrey F. Green</i>	34-38685	05/28/97
<i>In the Matter of Joseph Latona</i>	34-38684	05/28/97
<i>In the Matter of Joseph P. Greenwald</i>	34-39160	09/30/97
<i>In the Matter of Michael P. Sweeney</i>	34-38436	03/25/97
<i>In the Matter of Milton Weinger</i>	34-38300	02/18/97
<i>In the Matter of Nir Kantor</i>	34-37834	10/17/96
<i>SEC v. Ong Congqin Bobby</i>	LR-15334	04/15/97
<i>SEC v. Bruce Van Wagner</i>	LR-15537	09/30/97
<i>SEC v. Carmelo Blacconeri</i>	LR-15449	08/19/97
<i>SEC v. Cecil H. Suter</i>	LR-15207	01/06/97
<i>SEC v. Dale J. Lange</i>	LR-15509	09/25/97
<i>SEC v. David A. Schmidt</i>	LR-15352	04/29/97
<i>SEC v. David E. Lipson</i>	LR-15337	04/17/97
<i>SEC v. David R. Pfister</i>	LR-15519	09/30/97
<i>SEC v. Dhirein Patel</i>	LR-15444	08/13/97
<i>SEC v. Emanuel Pinez</i>	LR-15258	02/14/97
<i>SEC v. Eunice J. Leigh</i>	LR-15323	04/09/97
<i>SEC v. Frederick Liu</i>	LR-15397	06/26/97
<i>SEC v. Gregg Michael Brenner</i>	LR-15280	03/10/97
<i>SEC v. Harry C. Morgan</i>	LR-15203	01/02/97
<i>SEC v. J. Bristow Anderson</i>	LR-15473	09/04/97
<i>SEC v. Jacob Y. Ternner</i>	LR-15401	07/02/97
<i>SEC v. James M. Gleason</i>	LR-15131	10/22/96
<i>SEC v. Jay Marcus</i>	LR-15230	01/29/97
<i>SEC v. John C. Larrabee</i>	LR-15306	03/25/97
<i>SEC v. Judy Hockett</i>	LR-15377	05/30/97
<i>SEC v. Mark J. Aronds</i>	LR-15128	10/21/96
<i>SEC v. Michael Jonsson</i>	LR-15126	10/17/96
<i>SEC v. Milton Mutchnick</i>	LR-15322	04/09/97
<i>SEC v. Morris Debah</i>	LR-15189	12/18/96
<i>SEC v. Paul H. Borg</i>	LR-15497	09/17/97
<i>SEC v. Raeburn Evans</i>	LR-15309	03/31/97
<i>SEC v. Rangarao Panguluri</i>	LR-15322	04/07/97
<i>SEC v. Richard Beckwitt</i>	LR-15158	11/14/96
<i>SEC v. Robert Hunter</i>	LR-15413	07/16/97
<i>SEC v. Roy Handojo</i>	LR-15492	09/12/97
<i>SEC v. Samir Traboulsi</i>	LR-15429	08/04/97
<i>SEC v. Shahryar Soroosh</i>	LR-15141	10/29/96

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<i>SEC v. Susan L. Hirsch</i>	LR-15302	03/20/97
<i>SEC v. Susan S. Smirnoff</i>	LR-15302	03/20/97
<i>SEC v. Walter E. Johnson</i>	LR-15289	02/05/97
<i>SEC v. William M. Fisher, Jr.</i>	LR-15439	08/08/97

Issuer Financial Disclosure

<i>In the Matter of Alan D. Rosskamm</i>	AAER-885	05/27/97
<i>In the Matter of Alan G. Lewis</i>	AAER 848	10/28/96
<i>In the Matter of Aura Systems, Inc.</i>	AAER 839	10/02/96
<i>In the Matter of B.J. Thomas, CPA</i>	AAER 922	06/10/97
<i>In the Matter of C. Langford, CPA</i>	AAER 877	02/06/97
<i>In the Matter of Calvin M. Dyer</i>	AAER 847	10/22/96
<i>In the Matter of Cambridge Biotech Corp.</i>	AAER 843	10/17/96
<i>In the Matter of Century Technologies, Inc.</i>	AAER-961	09/16/97
<i>In the Matter of Combined Companies International Corp.</i>	AAER-919	05/29/97
<i>In the Matter of Curtis L. Dally</i>	AAER-967	09/29/97
<i>In the Matter of David Gore</i>	AAER-889	02/27/97
<i>In the Matter of David Hersh, CPA</i>	AAER-962	09/18/97
<i>In the Matter of David Keery, CPA</i>	AAER-874	01/29/97
<i>In the Matter of Dennis Klein</i>	AAER 937	07/17/97
<i>In the Matter of Dorothea Bossio</i>	AAER 909	04/29/97
<i>In the Matter of Douglas R. Coates, CPA</i>	AAER-958	09/11/97
<i>In the Matter of Duane V. Midgley, CPA</i>	AAER 897	03/13/97
<i>In the Matter of Elliot Stumacher</i>	AAER-963	09/24/97
<i>In the Matter of Ernest W. Grendi, CPA</i>	AAER 864	12/16/96
<i>In the Matter of Frederick R. Grant, CPA</i>	AAER 876	02/05/97
<i>In the Matter of Gary A. Prince, CPA</i>	AAER 927	06/24/97
<i>In the Matter of Greg Steven Kaplan</i>	AAER 844	10/21/96
<i>In the Matter of Harry T. Couch, CPA</i>	AAER 878	02/06/97
<i>In the Matter of International Energy Development Corp.</i>	AAER 850	10/29/96
<i>In the Matter of J.M. Levy and Co.</i>	AAER 906	04/11/97
<i>In the Matter of James P. Brown</i>	AAER 944	08/05/97
<i>In the Matter of James R. Bryan, CPA</i>	AAER-960	09/15/97
<i>In the Matter of John R. Alfson</i>	AAER-972	09/30/97

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<i>In the Matter of Karl G. Wassman III, CPA</i>	AAER 853	11/12/96
<i>In the Matter of Kedar Gupta</i>	AAER-965	09/25/97
<i>In the Matter of Kenneth F. Richey, CPA</i>	AAER 926	06/24/97
<i>In the Matter of Laser Photonics Inc.</i>	AAER-971	09/30/97
<i>In the Matter of Linda A. Hodge, CPA</i>	AAER-887	02/18/97
<i>In the Matter of Lynn K. Blattman</i>	AAER 903	04/10/97
<i>In the Matter of Lynn K. Ross</i>	AAER 954	09/10/97
<i>In the Matter of Mary Brennan</i>	AAER-969	09/30/97
<i>In the Matter of Matthew E. Klenovic, CPA</i>	AAER-867	01/06/97
<i>In the Matter of Merle S. Finkel, CPA</i>	AAER-895	03/12/97
<i>In the Matter of Mickie E. Higgins-Hallke, CPA</i>	AAER 952	09/10/97
<i>In the Matter of Midisoft Corp.</i>	AAER 846	10/22/96
<i>In the Matter of Ngai King Tak</i>	AAER 946	08/28/97
<i>In the Matter of Nicholas J. Pace, CPA</i>	AAER 913	05/02/97
<i>In the Matter of Pace American Group, Inc.</i>	AAER 894	03/05/97
<i>In the Matter of Philip McInnes</i>	AAER-968	09/30/97
<i>In the Matter of Philip S. Present II, CPA</i>	AAER 904	04/10/97
<i>In the Matter of Ponder Industries Inc.</i>	AAER-938	07/22/97
<i>In the Matter of Quality Products, Inc.</i>	AAER 857	11/14/96
<i>In the Matter of Raymond J. Bily</i>	AAER-883	02/18/97
<i>In the Matter of Richard J. Lajoie, Jr.</i>	AAER 910	04/30/97
<i>In the Matter of Robert Jarkow</i>	AAER-892	03/04/97
<i>In the Matter of Robert L. Gresham, CPA</i>	AAER 943	08/05/97
<i>In the Matter of Ronald H. Hoffman, CPA</i>	AAER 911	04/30/97
<i>In the Matter of Steven F. Broadbent, CPA</i>	AAER-921	06/03/97
<i>In the Matter of Timothy A. Ross, CPA</i>	AAER-957	09/11/97
<i>In the Matter of Troy Lee Wood</i>	AAER 852	10/31/96
<i>In the Matter of William B. Sanders, CPA</i>	AAER 955	09/10/97
<i>In the Matter of William D. Kyle</i>	AAER 941	02/18/97
<i>In the Matter of William T. Manak</i>	AAER 879	02/06/97
<i>In the Matter of Wyatt Gene Ross</i>	AAER 953	09/10/97
<i>SEC v. Alexandria Elizabeth</i>	AAER 940	07/24/97

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<i>SEC v. Barry C. Nelsen</i>	AAER-908	04/22/97
<i>SEC v. Bruce A. Milliken</i>	AAER 928	06/24/97
<i>SEC v. Chester Holdings, Ltd.</i>	AAER-901	04/01/97
<i>SEC v. Don Haywood Pace</i>	AAER 845	10/21/96
<i>SEC v. Environmental Chemicals Group</i>	AAER-862	12/11/96
<i>SEC v. Fabri-Centers of America, Inc.</i>	AAER 886	02/18/97
<i>SEC v. Ferrofluidics Corporation</i>	AAER-966	09/25/97
<i>SEC v. Francis X. Wazeter, III</i>	AAER-976	09/30/97
<i>SEC v. Fukuhara</i>	AAER-973	09/30/97
<i>SEC v. Greenway Environmental Services, Inc.</i>	AAER 914	05/13/97
<i>SEC v. Guido Volante</i>	None	09/16/97
<i>SEC v. Irving M. Mangel</i>	AAER 947	08/28/97
<i>SEC v. Jacob Adoni</i>	AAER 872	01/21/97
<i>SEC v. Jeffrey P. Sudikoff</i>	AAER-974	09/30/97
<i>SEC v. Jerry G. Kilgore</i>	LR-15345	03/28/97
<i>SEC v. Joseph C. Allegra</i>	AAER 923	06/11/97
<i>SEC v. Mark K. Curry</i>	AAER 950	09/04/97
<i>SEC v. Maury H. Joseph</i>	AAER-959	09/08/97
<i>SEC v. Merle S. Finkel</i>	AAER 896	03/12/97
<i>SEC v. Michael Humphress</i>	AAER 925	06/19/97
<i>SEC v. Mitchell A. Hammer</i>	AAER-942	07/25/97
<i>SEC v. Montedison S.p.A.</i>	AAER 859	11/21/96
<i>SEC v. Patrick J. Leonard</i>	AAER 924	06/11/97
<i>SEC v. Policy Management Systems, Corp.</i>	AAER 939	07/23/97
<i>SEC v. Ponder Industries, Inc.</i>	None	07/22/97
<i>SEC v. Scientific Software-Intercomp, Inc.</i>	AAER-956	09/11/97
<i>SEC v. Structural Dynamics Research Corp.</i>	AAER 905	04/10/97
<i>SEC v. Timothy Ross</i>	AAER 945	08/27/97
<i>SEC v. Triton Energy</i>	AAER-890	02/27/97
<i>SEC v. Wyatt Gene Ross</i>	AAER 951	09/04/97

Issuer Reporting: Other

<i>In the Matter of Garcis USA Inc.</i>	34-38367	03/05/97
<i>In the Matter of Halsey Drug Co., Inc.</i>	34-38210	01/28/97
<i>In the Matter of Michael Goodbread, CPA</i>	AAER-861	12/10/96
<i>In the Matter of Norman Gelman</i>	34-38325	02/24/97
<i>In the Matter of Paul L. Parshall</i>	34-37814	10/11/96
<i>In the Matter of W.R. Grace</i>	34-39157	09/30/97

Market Manipulation

<i>In the Matter of A.R. Baron and Co., Inc.</i>	34-37831	10/17/96
<i>In the Matter of Andrew Bressman</i>	34-37832	10/18/96
<i>In the Matter of Cortlandt Capital Corp.</i>	34-39138	09/26/97
<i>In the Matter of Dale E. Barlage</i>	34-38061	12/19/96
<i>In the Matter of David M. Carmichael</i>	34-39130	09/25/97
<i>In the Matter of Edward Christian Farni</i>	34-39133	09/25/97
<i>In the Matter of Joseph Riccio</i>	34-38425	03/20/97
<i>In the Matter of Kent T. Black</i>	34-39134	09/26/97
<i>In the Matter of Michael J. Markonski</i>	34-38424	03/20/97
<i>In the Matter of Phillip S. Sindler</i>	34-38004	12/02/96
<i>In the Matter of Richard Cannistraro</i>	34-37798	10/09/96
<i>In the Matter of Robert Gann</i>	34-37925	11/06/96
<i>In the Matter of Sam Moore</i>	34-39155	09/30/97
<i>In the Matter of Stephen D. Gellas</i>	34-39132	09/25/97
<i>SEC v. Bradley J. Simmons</i>	LR-15353	04/24/97
<i>SEC v. Charles O. Huttoo</i>	LR-15153	11/07/96
<i>SEC v. Global Financial Traders, Ltd.</i>	LR-15291	03/13/97
<i>SEC v. Leonard Greer and Judah Wernick</i>	LR-15516	09/30/97
<i>SEC v. Nicholas F. Coscia</i>	LR-15391	06/09/97
<i>SEC v. PanWorld Minerals International, Inc.</i>	AAER 920	06/02/97
<i>SEC v. Philip S. Sindler</i>	LR-15161	11/05/96
<i>SEC v. Richard P. Brown</i>	LR-15233	01/28/97
<i>SEC v. Sam Moore</i>	LR-15515	09/30/97
<i>SEC v. Sterling Foster & Co.</i>	LR-15261	02/14/97
<i>SEC v. Steven H. Schiffer</i>	LR-15435	08/07/97

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Miscellaneous

<i>In the Matter of Dickinson & Co.</i>	34-38689	05/28/97
<i>In the Matter of Pendleton C. Waugh</i>	34-38761	06/24/97
<i>In the Matter of Sheldon S. Traube</i>	34-38448	03/27/97
<i>SEC v. John T. Hall</i>	LR-15255	02/13/97

Offering Violations

<i>SEC v. George Chelekis</i>	LR-15264	02/25/97
<i>In the Matter of Arthur Graves</i>	34-38674	05/27/97
<i>In the Matter of Aubrey O'Connor</i>	34-38714	06/04/97
<i>In the Matter of Cary S. Greene</i>	34-39141	09/29/97
<i>In the Matter of Charles S. Christopher</i>	34-37827	10/16/96
<i>In the Matter of Christopher D. Jennings</i>	34-38696	05/30/97
<i>In the Matter of David Hengstler</i>	34-39090	09/18/97
<i>In the Matter of David P. Silver</i>	34-38914	08/11/97
<i>In the Matter of Desoto Broadcasting Inc.</i>	34-37989	11/26/97
<i>In the Matter of Diversified Capital Resources</i>	34-39161	09/30/97
<i>In the Matter of Dominion Capital Corp.</i>	34-38952	08/19/97
<i>In the Matter of Douglas R. Damon</i>	34-38579	05/07/97
<i>In the Matter of Dwight Allen</i>	34-39122	09/24/97
<i>In the Matter of Edward M. Collins</i>	34-39062	09/12/97
<i>In the Matter of Freddie Don Stewart</i>	34-39085	09/17/97
<i>In the Matter of Gary V. Lewellyn</i>	34-37927	11/06/97
<i>In the Matter of Gary W. Berus</i>	34-38944	08/18/97
<i>In the Matter of George Garcy</i>	34-39091	09/18/97
<i>In the Matter of GFL Ultra Fund Ltd.</i>	33-7423	06/18/97
<i>In the Matter of H. Beck, Inc.</i>	34-38913	08/11/97
<i>In the Matter of Helen A. Roy</i>	34-39169	09/30/97
<i>In the Matter of Helen T. Chalut</i>	AAER-933	07/01/97
<i>In the Matter of J.M. Dickinson Bransford</i>	33-7454	09/22/97
<i>In the Matter of James G. Freeman</i>	34-38661	05/21/97
<i>In the Matter of John Banach</i>	34-38079	12/23/96
<i>In the Matter of Jon D. Aldrich</i>	34-38382	03/11/97
<i>In the Matter of Joseph F. Reese</i>	33-7457	09/25/97

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
<i>In the Matter of Kyle Weston</i>	AAER-884	06/10/97
<i>In the Matter of LDF Management Inc.</i>	34-39142	09/29/97
<i>In the Matter of Lloyd John Newton</i>	34-39023	09/05/97
<i>In the Matter of Mark A. Ritacco</i>	34-39164	09/30/97
<i>In the Matter of Mark Anthony Suppes</i>	34-38171	01/15/97
<i>In the Matter of Martin Kaiden</i>	34-39050	09/11/97
<i>In the Matter of Matt Matson</i>	34-38433	03/24/97
<i>In the Matter of Michael Donald McGahee</i>	34-38083	12/06/96
<i>In the Matter of Michael L. Cooperstock</i>	34-39151	09/30/97
<i>In the Matter of National Partnership</i>	AAER-929	06/25/97
<i>In the Matter of Neal B. Stein</i>	34-38304	02/19/97
<i>In the Matter of Paul Okuda</i>	AAER-934	07/01/97
<i>In the Matter of Peter C. Tosto</i>	34-38136	10/31/96
<i>In the Matter of Raymond R. Newberg</i>	34-39153	09/30/97
<i>In the Matter of Richard K. Steele, Sr.</i>	34-37892	10/29/96
<i>In the Matter of Richard Milbrodt</i>	34-39121	09/24/97
<i>In the Matter of Robert C. White</i>	34-38441	03/26/97
<i>In the Matter of Robert Tatarowicz</i>	34-38036	12/10/96
<i>In the Matter of Ronald A. Monziona</i>	34-39135	09/26/97
<i>In the Matter of Ronald J. Mitchellette</i>	IA-1646	07/29/97
<i>In the Matter of Shaner & Company Inc.</i>	34-38027	12/09/96
<i>In the Matter of Sky Scientific Inc.</i>	AAER 863	12/16/96
<i>In the Matter of Spectrum Information Technologies, Inc.</i>	AAER-930	06/25/97
<i>In the Matter of Suppes Securities, Inc.</i>	34-38172	01/15/97
<i>In the Matter of The City of Syracuse, New York</i>	AAER-970	09/30/97
<i>In the Matter of Thomas Ehrlich</i>	34-38652	05/19/97
<i>In the Matter of Walter Herbert Moore, Jr.</i>	34-39006	09/03/97
<i>In the Matter of William H. Malek</i>	34-39150	09/30/97
<i>In the Matter of William Rossi</i>	34-38677	05/17/97
<i>SEC v. Kenneth P. Kasarjian</i>	LR-15324	04/10/97
<i>SEC v. Affordable Prepaid Cellular, Inc.</i>	LR-15378	05/20/97
<i>SEC v. Alpha Diversified Industries Inc.</i>	LR-15493	09/10/97
<i>SEC v. B.M.C. Enterprises Inc.</i>	LR-15400	07/02/97
<i>SEC v. Barnard Sackett</i>	LR-15504	09/22/97

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
<i>SEC v. Benefund, Inc.</i>	LR-15364	04/18/97
<i>SEC v. Berbun Associates Inc.</i>	LR-15127	10/18/96
<i>SEC v. Brian E. Willis</i>	LR-15517	09/30/97
<i>SEC v. Charles Anthony Ferracone</i>	LR-15499	09/17/97
<i>SEC v. Cihaco International, Inc.</i>	LR-15466	08/27/97
<i>SEC v. Club Atlanta Travel, Inc.</i>	LR-15500	09/18/97
<i>SEC v. Consumer Plus L.C.</i>	LR-15150	11/04/96
<i>SEC v. David I. Namer</i>	LR-15307	03/25/97
<i>SEC v. Enserco, Inc.</i>	LR-15326	03/27/97
<i>SEC v. Environmental Chemicals Group, Inc.</i>	LR-15183	12/11/96
<i>SEC v. Frank A. M. Luca</i>	LR-15461	08/27/97
<i>SEC v. Geneva Group</i>	LR-15496	09/15/97
<i>SEC v. Georgia Pooley Helliwell</i>	LR-15184	12/17/96
<i>SEC v. Gerard Burns</i>	LR-15224	09/29/97
<i>SEC v. Gray Hawk Fund Company</i>	LR-15412	07/16/97
<i>SEC v. Harold E. Tobin</i>	LR-15414	07/16/97
<i>SEC v. Harold J. Lee</i>	LR-15510	09/25/97
<i>SEC v. I-Net Providers</i>	LR-15219	10/30/96
<i>SEC v. Insnet World Communications Inc.</i>	LR-15432	07/28/97
<i>SEC v. Interactive Medical Technologies Ltd.</i>	LR-15441	08/13/97
<i>SEC v. James W. Hall</i>	LR-15328	03/25/97
<i>SEC v. Jason S. Wall</i>	LR-15471	09/04/97
<i>SEC v. John C. Rockett</i>	LR-15378	03/27/97
<i>SEC v. John F. Aptt</i>	LR-15361	05/07/97
<i>SEC v. John Sebastian Ragazzo</i>	None	09/26/97
<i>SEC v. Joseph A. Bremont</i>	LR-15163	11/21/96
<i>SEC v. Keith Knuttson</i>	LR-15475	08/29/97
<i>SEC v. Mark A. Ritacco</i>	LR-15483	09/10/97
<i>SEC v. Mark E. Gatch</i>	LR-15394	06/24/97
<i>SEC v. Mark S. Shaner</i>	LR-15149	10/21/96
<i>SEC v. Marshall E. Melton</i>	LR-15267	02/24/97
<i>SEC v. Martin Kaiden</i>	LR-15234	01/30/97
<i>SEC v. Members Service Corp.</i>	AAER 915	05/22/97
<i>SEC v. Michael Snowwhite</i>	LR-15434	08/06/97
<i>SEC v. MicroWest Industries, Inc.</i>	LR-15498	09/17/97

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
<i>SEC v. Mustang Development Corp.</i>	LR-15229	01/23/97
<i>SEC v. Neil A. Liechty</i>	LR-15269	02/27/97
<i>SEC v. Norman G. Cornelius</i>	LR-15369	05/01/97
<i>SEC v. NVID International, Inc.</i>	LR-15317	04/03/97
<i>SEC v. Omni International Trading, Inc.</i>	LR-15502	09/18/97
<i>SEC v. Phoenix Continental Corp.</i>	LR-15480	05/15/97
<i>SEC v. Phoenix Metals USA II, Inc.</i>	LR-15514	09/29/97
<i>SEC v. Richard Simonson</i>	LR-15199	12/26/96
<i>SEC v. Richard Warren & Associates, Inc.</i>	LR-15468	08/19/97
<i>SEC v. Rob Nite</i>	LR-15472	09/03/97
<i>SEC v. Ronald J. Mitchellette</i>	LR-15247	01/30/97
<i>SEC v. Simon M. Rosenfeld</i>	AAER 893	03/05/97
<i>SEC v. Southwest Income Trust</i>	LR-15360	05/05/97
<i>SEC v. Stephen J. Murphy</i>	LR-15344	04/21/97
<i>SEC v. Sunbelt Development Corp.</i>	LR-15416	07/15/97
<i>SEC v. Terry Oneil Clifford</i>	LR-15503	09/17/97
<i>SEC v. The Infinity Group Company</i>	LR-15462	08/27/97
<i>SEC v. Theta Group, LLC</i>	LR-15201	12/06/96
<i>SEC v. Thomas Mackie, Jr.</i>	LR-15179	11/27/96
<i>SEC v. United Fire Technology, Inc.</i>	AAER 936	07/16/97
<i>SEC v. Walter Clarence Busby, Jr.</i>	LR-15494	09/11/97
<i>SEC v. Wedgewood Financial Group, Inc.</i>	LR-15458	04/04/97
<i>SEC v. Western Executive Group</i>	LR-15106	10/02/96
<i>SEC v. Whitworth Energy Resources, Ltd.</i>	LR-15505	09/22/97
<i>SEC v. William H. Malek</i>	LR-15506	09/19/97

Other Regulated Entity: Investment Adviser

<i>In the Matter of Abraham and Sons Capital, Inc.</i>	IA-1673	09/29/97
<i>In the Matter of Alliance Capital Management LP 1940</i>	IA-1630	04/28/97
<i>In the Matter of August Mezzetta</i>	IA-1656	09/02/97
<i>In the Matter of Barbara B. Nolan</i>	IA-1655	09/02/97
<i>In the Matter of Benjamin Franklin Bush, III</i>	IA-1612	01/31/97
<i>In the Matter of Calamos Asset Management, Inc.</i>	IA-1594	10/16/96

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
<i>In the Matter of Carol A. Hamby</i>	IA-1661	09/10/97
<i>In the Matter of Consolidated Financial Advisors, Inc.</i>	IA-1672	09/26/97
<i>In the Matter of D.L. Gresty & Co., Inc.</i>	IA-1665	09/16/97
<i>In the Matter of Donald Sussman</i>	AAER 948	09/02/97
<i>In the Matter of First Capital Strategists</i>	IA-1648	08/13/97
<i>In the Matter of Gary L. Hamby</i>	IA-1668	09/22/97
<i>In the Matter of H.P. Hambrick Co., Inc.</i>	IA-1622	03/18/97
<i>In the Matter of John D. Mackenzie</i>	IA-1662	09/15/97
<i>In the Matter of Kent A. Ahrens</i>	IA-1615	02/18/97
<i>In the Matter of LBS Capital Management, Inc.</i>	IA-1644	07/18/97
<i>In the Matter of Michael Anthony Pierce</i>	IA-1616	03/04/97
<i>In the Matter of Norman L. Yu & Co.</i>	IA-1607	01/21/97
<i>In the Matter of Oakwood Counselors Inc.</i>	IA-1614	02/10/97
<i>In the Matter of Parnassus Investments</i>	IA-1634	05/28/97
<i>In the Matter of Peter S. Alsop</i>	IA-1652	08/27/97
<i>In the Matter of Profinancial Advisors Inc.</i>	IA-1670	09/22/97
<i>In the Matter of Profinancial Advisors, Inc., et al.</i>	None	08-01-97
<i>In the Matter of Robert Pierce</i>	IA-1620	03/17/97
<i>In the Matter of Ronald V. Speaker</i>	IA-1605	01/13/97
<i>In the Matter of Russell William Stein</i>	IA-1632	05/09/97
<i>In the Matter of Schuylkill Capital Management Ltd.</i>	IA-1675	09/30/97
<i>In the Matter of Stephens Inc.</i>	IA-1666	09/16/97
<i>In the Matter of Teresa V. Fernandez</i>	IA-1650	08/21/97
<i>In the Matter of Virgil Dean Damhof</i>	IA-1671	09/26/97
<i>In the Matter of Willy Kerzinger d/b/a Commodity Pool Service</i>	IA-1658	09/04/97
<i>SEC v. American Growth Capital Corp.</i>	LR-15440	08/12/97
<i>SEC v. Carlo Dalelio</i>	None	09/26/97
<i>SEC v. Channa Wickermeratne a/k/a Channa Wick</i>	LR-15368	05/13/97
<i>SEC v. Emmanuel A. Lagpacan</i>	LR-15430	08/01/97

<u>Name of Case</u>	<u>Release No.</u>	<u>Date Filed</u>
<i>SEC v. George A. Rotelli</i>	LR-15123	10/15/96
<i>SEC v. Hyannis Trading Advisors Inc.</i>	LR-15166	11/25/96
<i>SEC v. J. Scott Eskind</i>	LR-15395	06/20/97
<i>SEC v. John Garder Black</i>	LR-15511	09/26/97
<i>SEC v. Kent A. Ahrens</i>	LR-15122	10/15/96
<i>SEC v. Peter C. Bucchieri</i>	LR-15156	11/13/96
<i>SEC v. Robert C. Cowan</i>	LR-15154	11/05/96
<i>SEC v. Robert L. Gray</i>	LR-15427	08/01/97
<i>SEC v. Teresa V. Fernandez</i>	LR-15159	11/19/96
<i>SEC v. Virgil Dean Damhof</i>	IA-1671	09/26/97

Other Regulated Entity: Investment Companies

<i>In the Matter of Edward D. Jones Co.</i>	IC-22316	11/06/96
<i>In the Matter of Fundamental Portfolio Advisers, Inc.</i>	34-39158	09/30/97
<i>In the Matter of George W. Meyers</i>	IC-22723	06/23/97
<i>In the Matter of Hudson Investors Fund Inc.</i>	IC-22799	08/26/97
<i>In the Matter of Terence Michael Coxon</i>	IC-22460	01/13/97
<i>In the Matter of Vilis Pastis</i>	IC-22820	09/15/97
<i>SEC v. Trustcap Financial Group, Inc.</i>	LR-15297	03/17/97

Other Regulated Entity: SRO

<i>In the Matter of Stock Clearing Corp. of Philadelphia</i>	34-38918	08/11/97
<i>In the Matter of Timothy J. Guiheen</i>	34-38917	08/11/97
<i>In the Matter of William N. Briggs</i>	34-38919	08/11/97

Other Regulated Entity: Transfer Agent

<i>In the Matter of Frank P. Meadows III</i>	34-39034	09/09/97
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Related Party Transactions

<i>In the Matter of John Thomas Royall</i>	34-38358	03/04/97
<i>In the Matter Steven W. Koinis</i>	AAER-917	05/28/97

Name of Case

Release No. Date Filed

SEC v. John Thomas Royall

LR-15273 03/04/97

SEC v. Steven W. Koinis

AAER-898 03/14/97

Table 3
**INVESTIGATIONS OF POSSIBLE VIOLATIONS OF THE ACTS
 ADMINISTERED BY THE COMMISSION**

Pending as of October 1, 1996	1,614
Opened in Fiscal Year 1997	408
Total	2,022
Closed in Fiscal Year 1997	289
Pending as of September 30, 1997	1,733
Formal Orders of Investigation Issued in Fiscal Year 1997	265

Table 4
**ADMINISTRATIVE PROCEEDINGS INSTITUTED
 DURING FISCAL YEAR ENDING SEPTEMBER 30, 1997**

Broker-dealer Proceedings	138
Investment Adviser, Investment Company and Transfer Agent Proceedings	52
Stop Order Proceedings	49
Rule 102 Proceedings	29

Suspensions of Trading in Securities in Fiscal Year 1997	13

Table 5
INJUNCTIVE ACTIONS

Fiscal Year	Actions Initiated	Defendants Named
1988	125	401
1989	140	422
1990	186	557
1991	171	503
1992	156	487
1993	172	571
1994	197	620
1995	171	549
1996	180	588
1997	189	597

Right to Financial Privacy

Section 21(h) of the Securities Exchange Act of 1934 [15 U.S.C. 78u(h)(6)] requires that the Commission “compile an annual tabulation of the occasions on which the Commission used each separate subparagraph or clause of [Section 21(h)(2)] or the provisions of the Right to Financial Privacy Act of 1978 [12 U.S.C. 3401-22 (the RFPA)] to obtain access to financial records of a customer and include it in its annual report to the Congress.” During the fiscal year, the Commission made no applications for judicial orders pursuant to Section 21(h)(2). Set forth below are the number of occasions on which the Commission obtained customer records pursuant to the provisions of the RFPA:

Section 1104 (Customer Authorizations)	15
Section 1105 (Administrative Subpoenas)	559
Section 1107 (Judicial Subpoenas)	18

Table 6
TYPES OF PROCEEDINGS

ADMINISTRATIVE PROCEEDINGS

**Persons Subject to, Acts Constituting,
and Basis for, Enforcement Action**

Sanction

Any person

Violation of the federal securities laws.

Cease-and-desist order, which may also require a person to comply or take steps to effect compliance with federal securities laws; accounting and disgorgement of illegal profits. (Securities Act, Section 8A; Exchange Act, Section 21C(a); Investment Company Act, Section 9(f); Investment Advisers Act, Section 203(k)).

Broker-dealer, municipal securities dealer, government securities dealer, transfer agent, investment adviser or associated person

Willful violation of securities laws or rules; aiding or abetting such violation; failure reasonably to supervise others; willful misstatement or omission in filing with the Commission; conviction of or injunction against certain crimes or conduct.

Censure or limitation on activities; revocation, suspension or denial of registration; bar or suspension from association (Exchange Act, Sections 15(b)(4)-(6), 15B(c)(2)-(5), 15(C)(c)(1)-(2), 17A(c)(3)-(4); Investment Advisers Act, Section 203(e)-(f)).

Civil penalty up to \$110,000* for a natural person or \$550,000* for any other person; accounting and disgorgement of illegal profits. Penalties are subject to other limitations depending on the nature of the violation. (Exchange Act, Section 21B; Investment Company Act, Section 9; Investment Advisers Act, Section 203).

Temporary cease-and-desist order, which may, in appropriate cases, be issued *ex parte*. (Exchange Act, Section 21C).

Registered securities association

Violation of or inability to comply with the Exchange Act, rules thereunder, or its own rules; unjustified failure to enforce compliance with the foregoing or with rules of the Municipal Securities Rulemaking Board by a member or person associated with a member.

Suspension or revocation of registration; censure or limitation of activities, functions, or operations (Exchange Act, Section 19(h)(1)).

*Adjusted for inflation under Debt Collection Improvement Act.

Member of registered securities association, or associated person

Entry of Commission order against person pursuant to Exchange Act, Section 15(b); willful violation of securities laws or rules thereunder or rules of Municipal Securities Rulemaking Board; effecting transaction for other person with reason to believe that person was committing violations of securities laws.

Suspension or expulsion from the association; bar or suspension from association with member of association (Exchange Act, Section 19(h)(2)-(3)).

National securities exchange

Violation of or inability to comply with Exchange Act, rules thereunder or its own rules; unjustified failure to enforce compliance with the foregoing by a member or person associated with a member.

Suspension or revocation of registration; censure or limitation of activities, functions, or operations (Exchange Act, Section 19(h)(1)).

Member of national securities exchange, or associated person

Entry of Commission order against person pursuant to Exchange Act, Section 15(b); willful violation of securities laws or rules thereunder, effecting transaction for other person with reason to believe that person was committing violation of securities laws.

Suspension or expulsion from exchange; bar or suspension from association with member (Exchange Act, Section 19(h)(2)-(3)).

Registered clearing agency

Violation of or inability to comply with Exchange Act, rules thereunder, or its own rules; failure to enforce compliance with its own rules by participants.

Suspension or revocation of registration; censure or limitation of activities, functions, or operations (Exchange Act, Section 19(h)(1)).

Participant in registered clearing agency

Entry of Commission order against participant pursuant to Exchange Act, Section 15(b)(4); willful violation of clearing agency rules; effecting transaction for other person with reason to believe that person was committing violations of securities laws.

Suspension or expulsion from clearing agency (Exchange Act, Section 19(h)(2)).

Securities information processor

Violation of or inability to comply with provisions of Exchange Act or rules thereunder.

Censure or limitation of activities; suspension or revocation of registration (Exchange Act, Section 11A(b)(6)).

Any person

Willful violation of Securities Act, Exchange Act, Investment Company Act or rules thereunder; aiding or abetting such violation; willful misstatement in filing with Commission.

Temporary or permanent prohibition against serving in certain capacities with registered investment company (Investment Company Act, Section 9(b)).

Officer or director of self-regulatory organization

Willful violation of Exchange Act, rules thereunder or the organization's own rules; willful abuse of authority or unjustified failure to enforce compliance.

Removal from office or censure (Exchange Act, Section 19(h)(4)).

Principal of broker-dealer

Officer, director, general partner, ten-percent owner or controlling person of a broker-dealer for which a SIPC trustee has been appointed.

Bar or suspension from being or becoming associated with a broker-dealer (SIPA, Section 14(b)).

Securities Act registration statement

Statement materially inaccurate or incomplete.

Stop order refusing to permit or suspending effectiveness (Securities Act, Section 8(d)).

Person subject to Sections 12, 13, 14 or 15(d) of the Exchange Act or associated person

Failure to comply with such provisions or having caused such failure by an act or omission that person knew or should have known would contribute thereto.

Order directing compliance or steps effecting compliance (Exchange Act, Section 15(c)(4)).

Securities registered pursuant to Section 12 of the Exchange Act

Noncompliance by issuer with Exchange Act or rules thereunder.

Denial, suspension of effective date, suspension or revocation of registration (Exchange Act, Section 12(j)).

Public interest requires trading suspension.

Summary suspension of over-the-counter or exchange trading (Exchange Act, Section 12(k)).

Registered investment company

Failure to file Investment Company Act registration statement or required report; filing materially incomplete or misleading statement or report

Suspension or revocation of registration (Investment Company Act, Section 8(e)).

Company has not attained \$100,000 net worth 90 days after Securities Act registration statement became effective.

Stop order under Securities Act; suspension or revocation of registration (Investment Company Act, Section 14(a)).

Attorney, accountant, or other professional or expert

Lack of requisite qualifications to represent others; lacking in character or integrity; unethical or improper professional conduct; willful violation of securities laws or rules, or aiding and abetting such violation.

Permanent or temporary denial of privilege of appearing or practicing before the Commission (17 CFR Section 201.102(e)(1)).

Attorney suspended or disbarred by court; expert's license revoked or suspended; conviction of a felony or of a misdemeanor involving moral turpitude.

Automatic suspension from appearance or practice before the Commission (17 CFR Section 201.102(e)(2)).

Securities violation in Commission-instituted action; finding of securities violation by Commission in administrative proceedings.

Temporary suspension from practicing before the Commission; censure; permanent or temporary disqualification from practicing before the Commission (17 CFR Section 201.102(e)(3)).

Member or employee of Municipal Securities Rulemaking Board

Willful violation of Exchange Act, rules thereunder, or rules of the Board; abuse of authority.

Censure or removal from office (Exchange Act, Section 15B(c)(8)).

CIVIL PROCEEDINGS IN FEDERAL DISTRICT COURTS

Persons Subject to, Acts Constituting, and Basis for, Enforcement Action**Sanction**

Any person

Engaging in or about to engage in acts or practices violating securities laws, rules or orders thereunder (including rules of a registered self-regulatory organization).

Injunction against acts or practices constituting violations (plus other equitable relief under court's general equity powers) (Securities Act, Section 20(b); Exchange Act, Section 21(d); Holding Company Act, Section 18(e); Investment Company Act, Section 42(d); Investment Advisers Act, Section 209(d); Trust Indenture Act, Section 321).

Noncompliance with provisions of the laws, rules, or regulations under Securities Act, Exchange Act, or Holding Company Act, orders issued by Commission, rules of a registered self-regulatory organization, or undertaking in a registration statement.

Writ of mandamus, injunction, or order directing compliance (Securities Act, Section 20(c); Exchange Act, Section 21(e); Holding Company Act, Section 18(f)).

Violating the securities laws or a cease-and-desist order (other than through insider trading).

Civil penalty up to \$110,000* for a natural person or \$550,000* for any other person or, if greater, the gross gain to the defendant. Penalties are subject to other limitations dependent on nature of violation. (Securities Act, Section 20(d); Exchange Act, Section 21(d) (3); Investment Company Act, Section 42(e); Investment Advisers Act, Section 209(e)).

Trading while in possession of material non-public information in a transaction on an exchange or from or through a broker-dealer (and transaction not part of a public offering); aiding and abetting or directly or indirectly controlling the person who engages in such trading.

Maximum civil penalty: three times profit gained or loss avoided as a result of transaction (Exchange Act, Section 21A(a)-(b)).

Violating Securities Act Section 17(a)(1) or Exchange Act section 10(b), when conduct demonstrates substantial unfitness to serve as an officer or director.

Prohibition from acting as an officer or director of any public company. (Securities Act, Section 20(e); Exchange Act, Section 21(d)(2)).

Issuer subject to Section 12 or 15(d) of the Exchange Act; officer, director, employee or agent of issuer; stockholder acting on behalf of issuer

Payment to foreign official, foreign political party or official, or candidate for foreign political office, for purposes of seeking the use of influence in order to assist issuer in obtaining or retaining business for or with, or directing business to, any person.

Maximum civil penalty: \$11,000* (Exchange Act, Section 32(c)).

Securities Investor Protection Corporation

Refusal to commit funds or act for the protection of customers.

Order directing discharge of obligations and other appropriate relief (SIPA, Section 11(b)).

National securities exchange or registered securities association

Failure to enforce compliance by members or persons associated with its members with the Exchange Act, rules or orders thereunder, or rules of the exchange or association.

Writ of mandamus, injunction or order directing such exchange or association to enforce compliance (Exchange Act, Section 21(e)).

Registered clearing agency

Failure to enforce compliance by its participants with its own rules.

Writ of mandamus, injunction or order directing clearing agency to enforce compliance (Exchange Act, Section 21(e)).

*Adjusted for inflation under Debt Collection Improvement Act.

Issuer subject to Section 15(d) of 1934 Act

Failure to file required information, documents or reports.

Forfeiture of \$110* per day (Exchange Act, Section 32(b)).

Registered investment company

Name of company or of security issued by it deceptive or misleading.

Injunction against use of name (Investment Company Act, Section 35(d)).

Officer, director, member of advisory board, adviser, depositor, or underwriter of investment company

Engage in act or practice constituting breach of fiduciary duty involving personal misconduct.

Injunction against acting in certain capacities for investment company and other appropriate relief (Investment Company Act, Section 36(a)).

CRIMINAL PROSECUTION BY DEPARTMENT OF JUSTICE

Persons Subject to, Acts Constituting, and Basis for, Enforcement Action

Sanction

Any person

Willful violation of securities laws or rules thereunder; willful misstatement in any document required to be filed by securities laws or rules; willful misstatement in any document required to be filed by self-regulatory organization in connection with an application for membership or association with member.

Maximum penalties: \$1,000,000 fine and ten years imprisonment for individuals, \$2,500,000 fine for non-natural persons (Exchange Act, Sections 21(d), 32(a)); \$10,000 fine and five years imprisonment (or \$200,000 if a public utility holding company for violations of the Holding Company Act) (Securities Act, Sections 20(b), 24; Investment Company Act, Sections 42(e), 49; Investment Advisers Act, Sections 209(e), 217; Trust Indenture Act, Sections 321, 325; Holding Company Act, Sections 18(f), 29).

Issuer subject to Section 12 or 15(d) of the Exchange Act; officer or director of issuer; stockholder acting on behalf of issuer; employee or agent subject to the jurisdiction of the United States

Issuer - \$2,000,000; officer, director, employee, agent or stockholder - \$100,000 and five years imprisonment (issuer may not pay fine for others) (Exchange Act, Section 32(c)).

Payment to foreign official, foreign political party or official, or candidate for foreign political office for purposes of seeking the use of influence in order to assist issuer in obtaining or retaining business for or with, or directing business to, any person.

*Adjusted for inflation under Debt Collection Improvement Act.

Self-Regulatory Organizations: Expenses, Pre-Tax Income, and Balance Sheet Structure

In 1996, the total revenues of all self-regulatory organizations (SROs) with marketplace jurisdiction rose approximately \$211 million, an increase of approximately 16% from 1995. The New York Stock Exchange (NYSE), the National Association of Securities Dealers (NASD), the American Stock Exchange (AMEX), and the Chicago Board Options Exchange (CBOE) accounted for 89% of total SRO revenues, unchanged from 1995. Revenues were earned primarily from listing or issuer fees, trading fees, and market data fees. For example:

- The NYSE reported total revenue of \$561 million, an increase of 12% from 1995, of which 41% consisted of listing fees, 17% consisted of trading fees, and 15% consisted of market data fees.
- The NASD reported total revenue of \$556 million, an increase of 27% from 1995, of which 20% consisted of listing fees, 40% consisted of trading and market data fees.
- The AMEX reported total revenue of \$170 million, an increase of 11% from 1995, of which 9% consisted of listing fees.

The remaining SROs also reported increases in revenues as follows:

- The Boston Stock Exchange (BSE) reported a \$275,000 decrease (-2%) to \$15.4 million.
- The CBOE reported a \$1.4 million increase (1%) to \$108.7 million.
- The Pacific Exchange (PCX) reported a \$3.6 million increase (6%) to \$60.3 million.
- The Philadelphia Stock Exchange (PHLX) reported a \$2.9 million increase (7%) to \$45.7 million.
- The Chicago Stock Exchange (CHX) reported a \$6.9 million increase (23%) to \$36.9 million.

- The Cincinnati Stock Exchange (CSE) reported a \$752,000 increase (9%) to \$8.6 million.

Of the SROs reporting financial information for a 12-month period in fiscal year 1996, the NASD reported the largest percentage increase in total revenues, 27% as well as the largest dollar volume increase in total revenues, \$118.5 million.

The total expenses of all marketplace SROs were \$1.3 billion in 1996, an increase of \$120 million, or 10%, over 1995. The NASD incurred the largest percentage increase in expenses, 15%, as well as the largest dollar volume increase in expenses, \$62.8 million. Additionally, the following SROs incurred the following increases in expenses:

- The AMEX incurred a \$14.6 million increase (10%).
- The BSE incurred a \$335,000 increase (2%).
- The NYSE incurred a \$29.6 million increase (7%).
- The PCX incurred a \$2.8 million increase (6%).
- The PHLX incurred a \$2 million increase (5%).
- The CSE incurred a \$261,000 million increase (6%).
- The CBOE incurred a \$6.7 million increase (8%).
- The CHX incurred a \$834,000 increase (2%).

Aggregate pre-tax income of the marketplace SROs rose to \$260 million, an increase of \$96.8 million (59%), from the \$163.4 million reported in 1995. The NASD experienced the largest dollar volume increase in pre-tax income, \$60.7 million, as well as the largest percentage increase (225%). The remaining SROs reported positive pre-tax income in 1996 with the exception of the PHLX which reported a pre-tax loss of \$72,000. While PHLX reported a pre-tax loss, it did show improvement from its 1995 pre-tax loss of \$1 million. The BSE and the

CBOE were the only two SROs reporting a positive pre-tax income for 1996 that dropped from their 1995 levels.

The total assets of all marketplace SROs amounted to approximately \$2.1 billion in 1996, an increase of \$332 million (19%) over 1995. The NYSE showed the largest dollar volume increase in total assets, \$149 million (17%), while the PHLX showed the largest percentage increase in total assets, 61% (\$41.4 million). The CSE also showed a significant percentage increase in total assets, 30% (\$2.5 million). The NASD, AMEX, CBOE and PCX also reported increases in total assets equaling \$89.6 million (20%), \$22.8 million (16%), \$12.1 million (11%), and \$4.7 million (9%) respectively.

In 1996, the total liabilities of marketplace SROs increased \$174.4 million (23%) over 1995 levels. The PHLX showed the greatest percentage increase, 94% (\$41.3 million), while the NYSE reported the greatest dollar volume increase, \$74.7 million (18%). Increases in liabilities were also reported by the AMEX (\$16.3 million or 36%), BSE (\$3.1 million or 19%), CHX (\$4.3 million or 28%), and NASD (\$34.8 million or 23%).

The aggregate net worth of the marketplace SROs rose \$157.4 million in 1996 to \$1.178 billion, an increase of 15% over 1995. The CSE incurred the largest percentage increase in net worth, 43% (\$2.7 million), while the NYSE reported the largest dollar volume increase in net worth, \$74.4 million (17%). The PCX and NASD also reported substantial increases in net worth of \$6.3 million (21%) and \$54.8 million (18%) respectively. Net worth increases were also reported by CBOE (\$10.6 million, (12%)) and AMEX (\$6.5 million (6%)).

Clearing agency results have been presented in two tables by their respective types: clearing corporations and depositories. In calendar year 1996, aggregate revenues from clearing agency services increased \$70 million, or 12%, to \$629 million from \$560 million in 1995. Interest income declined \$90 million, or 62%, to \$55 million in 1996. All clearing agencies adjust their fee structures and refunds of fees to provide participants with attractively priced services, to meet expenses, and to provide the amount of earnings which they desire to retain.

Service revenues at the depositories totaled \$360 million, up \$6 million or 2%, from 1995. In 1996, The Depository Trust Company (DTC) increased its service revenues by 6% (\$20 million) and increased its pre-tax earnings from \$21,000 to \$301,000. The Philadelphia Depository Trust Company's 1996 service revenues increased 18% (\$1.8 million). Nevertheless, its pre-tax earnings decreased 105%, from \$263,000 in 1995 to a loss of \$12,000 in 1996.

Depositories continued to expand their base for service revenues by increasing both the number of equity shares and principal amount of debt securities on deposit. This gain occurred, among other reasons, because of the further expansion of depository-eligible issues and the participants' increased use of depository service. At year end 1996, DTC alone had more than 1.3 million depository-eligible issues and a total value of securities in its depository system of \$12 trillion.

Service revenues of clearing corporations for 1996 increased 16% to \$206 million in 1996 from \$177 million for 1995, and earnings for clearing corporations decreased to \$9.5 million in 1996 from \$16 million in 1995, a decrease of 59%.

The results were mixed for individual clearing corporations' pre-tax earnings. For example, the National Securities Clearing Corporation did not report any earnings for 1996 compared with \$3.7 million for 1995, a decrease of 100%. The Government Securities Clearing Corporation reported earnings of \$3.9 million for 1996 compared with \$5.5 million for 1995, a decrease of 28%. The Options Clearing Corporation reported earnings of \$3.3 million for 1996 compared with \$3.2 million for 1995, an increase of 3%. The Stock Clearing Corporation of Philadelphia reported a 1996 gain of \$986,000 compared with a loss of \$717,000 in 1995, an increase of 238%.

The aggregate shareholders' equity of all clearing corporations and depositories decreased from \$120 million to \$117 million. Aggregate participant clearing funds, which protect clearing agencies in the event of a participant default, increased by \$1.6 billion, or 44%, to \$ 5.2 billion. If a participant defaults and its losses exceed its deposit at a clearing agency, the entire participants' fund of the clearing agency may be assessed on a pro rata basis.

Table 7
CONSOLIDATED FINANCIAL INFORMATION OF SELF-REGULATORY ORGANIZATIONS
1993 – 1996
(\$ in Thousands)

	AMEX 1/	BSE 2/	CBOE 3/	CHX 1/	CSE 4/*	NASD 1/	NYSE 1/	PHLX 1/	PSE 1/	Total
Total Revenues										
1993	\$131,024	14,055	80,997	70,134	6,057	332,126	445,037	38,808	43,457	\$1,161,695
1994	\$143,555	14,901	97,663	29,653***	3,582**	371,987	452,279	40,636	46,799	\$1,201,055
1995	\$153,114	15,697	107,320	30,004	7,890	437,571	500,815	42,792	56,710	\$1,351,913
1996	\$170,338	15,422	108,656	36,930	8,642	556,104	561,503	45,736	60,277	\$1,563,608
Total Expenses										
1993	\$119,744	13,031	80,349	71,920	4,157	275,014	348,412	37,864	41,747	\$ 992,238
1994	\$129,123	13,855	76,096	30,277***	2,175	340,929	372,140	41,559	41,989	\$1,048,144
1995	\$143,954	14,630	85,589	35,455	4,198	410,568	403,804	43,799	46,674	\$1,188,671
1996	\$158,545	14,965	92,267	36,289	4,459	473,375	433,448	45,808	49,469	\$1,308,625
Pre-Tax Income (Loss)										
1993	\$ 11,280	1,024	648	(1,786)	1,900	57,112	96,625	944	1,710	\$ 169,457
1994	\$ 14,432	1,046	21,567	(624)***	1,427	31,058	80,139	(923)	4,810	\$ 152,932
1995	\$ 9,160	1,067	21,731	(5,451)	3,889****	27,003	97,011	(1,007)	10,036	\$ 163,439
1996	\$ 11,793	457	16,389	641	4,439****	87,729	128,055	(72)	10,808	\$ 260,239
Total Assets										
1993	\$118,410	19,405	84,902	259,790	5,666	378,863	719,824	77,434	37,682	\$1,701,975
1994	\$135,498	16,247	93,730	37,705***	5,169	422,775	808,600	66,854**	36,292	\$1,622,871
1995	\$147,261	23,350	107,786	34,582	8,371	458,589	863,472	67,699	52,159	\$1,763,269
1996	\$170,089	26,770	119,935	40,551	10,845	548,216	1,012,632	109,184	56,835	\$2,095,057
Total Liabilities										
1993	\$ 29,436	13,738	25,805	238,317	2,675	110,252	380,515	52,455	16,286	\$ 869,478
1994	\$ 38,760	10,025	21,148	14,941***	1,310	133,033	425,312	43,623**	12,079	\$ 700,232
1995	\$ 45,519	16,305	21,634	15,704	2,153	151,703	423,500	43,750	22,031	\$ 742,299
1996	\$ 61,808	19,457	23,180	20,064	1,970	186,483	498,255	85,075	20,364	\$ 916,656
Net Worth										
1993	\$ 88,974	5,667	59,097	21,473	2,991	268,611	339,309	24,979	21,396	\$ 832,497
1994	\$ 96,738	6,222	72,582	22,764***	3,859	289,742	383,288	23,231	24,213	\$ 922,639
1995	\$101,742	7,045	86,152	18,878	6,218	306,886	439,972	23,949	30,128	\$1,020,970
1996	\$108,281	7,313	96,755	20,487	8,875	361,733	514,377	24,109	36,471	\$1,178,401

1/ Fiscal year ending December 31.

2/ Fiscal year ending September 30.

3/ Fiscal year ending June 30

4/ Fiscal year ending June 30 as of 1994. Previously, CSE used a fiscal year ending December 31

* Amounts for 1994 are based on consolidated statements for the six months ended June 30, 1994

** These amounts have been reclassified to conform with the 1995 presentation.

*** In 1995, CHX discontinued operations of several subsidiaries. The 1994 financial statements have been restated for the effects of operations discontinued in 1995

**** Pretax income includes nonoperating income of \$255,563.

Table 8
SELF-REGULATORY ORGANIZATIONS — CLEARING CORPORATIONS
1996 REVENUES and EXPENSES 1/
(\$ in Thousands)

	Boston Stock Exchange Clearing Corporation 9/30/96 2/	Delta Clearing Corporation 12/31/96 3/	Government Securities Clearing Corporation 12/31/96 4/	International Securities Clearing Corporation 9/30/96 5/	MBS Clearing Corporation 12/31/96 5/	National Securities Clearing Corporation 12/31/96	Options Clearing Corporation 12/31/96	Pacific Clearing Corporation 12/31/96 7/	Stock Clearing Corporation of Philadelphia 12/31/96	Total
Revenues										
Clearing Services	\$ 5,125	\$ 940	\$ 15,309	\$ 4,268	\$ 6,188	\$ 112,757	\$ 48,891	\$ 6,848	\$ 6,066	\$ 206,392
Interest or Investment Income	840	280	3,920	145	646	8,952	2,982	25	560	18,350
All Other Revenues	105	0	0	0	1,083	0	6,098	158	390	7,834
Total Revenues 8/	\$ 6,070	\$ 1,220	\$ 19,229	\$ 4,413	\$ 7,917	\$ 121,709	\$ 57,971	\$ 7,031	\$ 7,016	\$ 232,576
Expenses										
Employee Costs	\$ 2,042	\$ 1,128	\$ 5,355	\$ 2,078	\$ 2,850	\$ 0	\$ 23,610	\$ 863	\$ 3,579	\$ 41,505
Data Processing and Communication Costs	1,688	1,133	7,521	1,615	2,016	53,702	12,843	2,153	1,175	83,846
Occupancy Costs	349	124	337	0	205	0	3,520	200	0	4,735
General and Administrative	745	0	1,963	1,370	537	44,075	7,357	869	839	57,755
Depreciation	364	135	0	0	286	0	817	0	0	1,602
Professional Fees	139	436	143	0	940	0	6,133	0	437	8,228
All Other Expenses	352	287	0	231	0	23,932	346	250	0	25,398
Total Expenses	\$ 5,679	\$ 3,243	\$ 15,319	\$ 5,294	\$ 6,834	\$ 121,709	\$ 54,626	\$ 4,335	\$ 6,030	\$ 223,069
Excess of Revenues Over Expenses 9/	\$ 391	(\$ 2,023)	\$ 3,910	(\$ 881)	\$ 1,083	\$ 0	\$ 3,345	\$ 2,696	\$ 986	\$ 9,507
Shareholders' Equity	\$ 2,823	\$ 4,330	\$ 17,090	(\$ 913)	\$ 4,323	\$ 25,000	\$ 9,278	\$ 9,180	\$ 2,268	\$ 73,379
Clearing Fund	\$ 609	\$ 0	\$ 1,298,079	\$ 3,555	\$ 1,566,650	\$ 820,022	\$ 587,207	\$ 1,686	\$ 7,918	\$ 4,285,726

1/ Although efforts have been made to make the presentations comparable, any single revenue or expense category may not be completely comparable between any two clearing agencies because of (i) the varying classification methods employed by the clearing agencies in reporting operating results and (ii) the grouping methods employed by the SEC's staff due to these varying classification methods. Individual amounts are shown to the nearest thousand. Totals are the rounded result of the underlying amounts and may not be the arithmetic sums of the parts.

2/ The Boston Stock Exchange Clearing Corporation is a wholly owned subsidiary of the Boston Stock Exchange and received operational and other services from its parent.

3/ The Delta Clearing Corporation has a surety bond of \$100 million in lieu of a clearing fund.

4/ Effective in May 1988, the National Securities Clearing Corporation (NSCC) sold 81% of the Government Securities Clearing Corporation (GSCC) to certain of its participants. At that time, NSCC entered into an agreement with GSCC to provide various support services and office facilities. The equity interest in GSCC is included in NSCC's results.

5/ The International Securities Clearing Corporation is a wholly owned subsidiary of the NSCC and received operational and other services from its parent.

6/ On August 12, 1994, the Chicago Stock Exchange sold the MBS Clearing Corporation to NSCC. The fair value of net assets exceeded the purchase by \$4,738,000. Fixed assets were reduced by \$1,488,000 in 1994 and the remaining \$3,250,000 excess will be amortized to operations on a straight line basis over three years.

7/ The Pacific Stock Exchange (PSE) has an agreement with NSCC to settle trades of PSE specialists through PSE's membership in NSCC. This may expose PSE to off-balance-sheet risk in the event a specialist fails. PSE established a clearing fund in 1994 and monitors capital compliance to mitigate this risk. PSE also monitors members' transactions on a daily basis.

8/ Revenues are net of refunds which have the effect of reducing a clearing agency's base fee rates.

9/ This is the result of operations and before the effect of income taxes, which may significantly impact a clearing agency's net income.

Table 9
SELF-REGULATORY ORGANIZATIONS—DEPOSITORIES
1996 REVENUES and EXPENSES 1/
(\$ in Thousands)

	Depository Trust Company (12/31/96)	Participants Trust Company (12/31/96)	Philadelphia Depository Trust Company (12/31/96)	Total
Revenues				
Depository Services	\$332,345	\$15,278	\$12,191	\$359,814
Interest Income	22,299	14,024	767	37,090
Total Revenues 2/	<u>\$354,644</u>	<u>\$29,302</u>	<u>\$12,958</u>	<u>\$396,904</u>
Expenses				
Employee Costs	\$205,762	\$11,249	\$7,148	\$224,159
Data Processing	19,359	3,954	3,200	26,513
Occupancy Costs	50,566	7,270	0	57,836
Depreciation and Amortization of Intangibles	16,788	1,151	0	17,939
All Other Expenses	61,868	4,738	2,622	69,228
Total Expense	<u>\$354,343</u>	<u>\$28,362</u>	<u>\$12,970</u>	<u>\$395,675</u>
Excess of Revenues Over Expenses 3/	\$301	\$940	\$(12)	\$1,229
Shareholders' Equity	\$19,707	\$20,073	\$3,840	\$43,620
Participant's Fund	\$675,171	\$269,061	\$2,223	\$946,455

1/ Although efforts have been made to make the presentations comparable, any single revenue or expense category may not be completely comparable between any two depositories because of (i) the varying classification methods employed by the depositories in reporting operating results and (ii) the grouping methods employed by the SEC's staff due to these varying classification methods. Individual amounts are shown to the nearest thousand. Totals are the rounded result of the underlying amounts and may not be the arithmetic sums of the parts.

2/ Revenues are net of refunds which have the effect of reducing a clearing agency's base fee rates.

3/ This is the result of operations and before the effect of income taxes, which may significantly impact a depository's net income.

Certificate Immobilization

Book entry deliveries continued to outdistance physical deliveries in the settlement of securities transactions among depository participants of The Depository Trust Company (DTC). This tendency is illustrated in Table 10, Certificate Immobilization Trends. The table captures the relative significance of the mediums employed, in a ratio of book-entry deliveries to certificates withdrawn from DTC. The figures includes Direct Mail by Agents and municipal bearer bonds. In 1996, the total certificates withdrawn decreased by 15% from 1995, while the number of book-entry deliveries increased by 14%. In 1996, the ratio was almost 4 times the 1992 ratio of book-entry deliveries rendered for every certificate withdrawn.

Table 10
CERTIFICATE IMMOBILIZATION TRENDS
The Depository Trust Company

	<u>1996</u>	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>
Book-entry Deliveries at DTC (millions)	136.0	119.0	106.0	98.3	83.3
Total of All Certificates (in thousands)	2,769	3,270	3,899	4,140	6,467
Book-entry Deliveries per Certificates Withdrawn	49.0	36.4	27.1	23.7	12.9

Section 13(f)(1) Reports

Section 13(f)(1) of the Exchange Act and rule 13f-1 require “institutional investment managers” exercising investment discretion over accounts holding certain equity securities with a fair market value of at least \$100 million to file quarterly reports on Form 13F. For the quarter ended September 30, 1997, 1,925 managers filed Form 13F reports. For the quarter ended June 30, 1997, the total market value of holdings reported on Form 13F was approximately \$6.1 trillion.

Exemptions

Section 12(h) Exemptions

Section 12(h) of the Exchange Act authorizes the Commission to grant a complete or partial exemption from the registration provisions of section 12(g) or from the disclosure or insider reporting/trading provisions of the Exchange Act where such exemption is consistent with the public interest and the protection of investors. Three applications were pending at the beginning of 1997, and one application was filed during the year. Requested relief was granted to one applicant.

Exemptions for Foreign Private Issuers

Rule 12g3-2 provides various exemptions from the registration provisions of section 12(g) of the Exchange Act for the securities of foreign private issuers. A frequently used exemption is that contained in subparagraph (b), which provides an exemption for certain foreign issuers that furnish specified documents to the Commission on a current basis. Such documents include information material to an investment decision that the issuer has:

- made or is required to make public pursuant to the law of the country in which it is incorporated or organized;
- filed or is required to file with a stock exchange on which its securities are traded and which was made public by such exchange; or

- distributed or is required to distribute to its securityholders.

Periodically, the SEC publishes a list of those foreign issuers that appear to be current under the exemptive provision. The current list contains over 1,400 foreign issuers.

Rule 10b-6 and Regulation M Exemptions

During 1997, the Commission granted 8 written exemptions pursuant to paragraph (h) of rule 10b-6. Also, the Commission granted 5 written exemptions pursuant to rule 101 (d) of Regulation M and 5 written exemptions pursuant to rule 102 (e) of Regulation M.

Corporate Reorganizations

During 1997, the Commission entered its appearance in 31 reorganization cases filed under Chapter 11 of the Bankruptcy Code involving companies with aggregated stated assets of approximately \$5 billion and 110,000 public investors. Counting these new cases, the Commission was a party in a total of 95 Chapter 11 cases during the year. In these cases, the stated assets totaled approximately \$30 billion and involved almost 725,000 public investors. During the year, 41 cases were concluded through confirmation of a plan of reorganization, dismissal, or liquidation, leaving 54 cases in which the Commission was a party at year-end.

Table 11
REORGANIZATION PROCEEDINGS UNDER CHAPTER 11
OF THE BANKRUPTCY CODE IN WHICH
THE SEC ENTERED APPEARANCE

Debtor	District	FY Opened	FY Closed
50% Off Stores, Inc. <u>1/</u>	W. TX	1997	1997
ACI-HDT Supply Co. <u>1/</u>	S.D. CA	1996	1997
Action Auto Rental, Inc.	D. OH	1993	
Advanced Promotion Technologies, Inc.	S.D. FL	1997	
Aileen, Inc.	S.D. NY	1994	
Alexander's Inc. <u>1/</u>	S.D. NY	1992	1997
Alliance Entertainment Corp.	D. NY	1997	
Alliant Computer Systems Corp. <u>1/</u>	E.D. MA	1992	1997
American Microtel, Inc.	D. NV	1995	
Apogee Robotics, Inc. <u>2/</u>	D. CO	1997	1997
Audre Recognition Systems, Inc.	S.D. CA	1997	
Autolend Group, Inc.	D. NM	1997	

Table 11 (continued)
 REORGANIZATION PROCEEDINGS UNDER CHAPTER 11
 OF THE BANKRUPTCY CODE IN WHICH
 THE SEC ENTERED APPEARANCE

Debtor	District	FY Opened	FY Closed
Automobile Credit Finance, Inc. et al. <u>1/</u>	N.D. TX	1997	1997
Baldwin Builders <u>1/</u>	C.D. CA	1995	1997
Barry's Jewelers, Inc.	C.D. CA	1997	
Barton Industries, Inc. <u>1/</u>	W.D. OK	1991	1997
B-E Holdings, Inc.	E.D. WI	1994	
Ben Franklin Retail Stores, Inc.	N.D. IL	1996	
Best Products Co. <u>1/</u>	E.D. VA	1997	1997
Bonneville Pacific Corp.	D. UT	1992	
Bradlees, Inc.	S.D. NY	1996	
Cambridge Biotech Corp. <u>1/</u>	D.M. MA	1994	1997
Carter Hawley Hale Stores, Inc.	C.D. CA	1991	
Cincinnati Microwave, Inc.	S.D. OH	1997	
Clinicorp, Inc. <u>1/</u>	S.D. FL	1997	1997
Clothestime, Inc.	C.D. CA	1996	
College Bound, Inc. <u>1/</u>	S.D. FL	1993	1997
Comptronix Corp. <u>1/</u>	D. DE	1997	1997
CPT Corp.	D. MN	1991	
Craig Consumer Electronics, Inc.	C.D. CA	1997	
Crazy Eddie, Inc., et al. <u>2/</u>	S.D. NY	1989	1997
Dakota Minerals, Inc. <u>2/</u>	D. WY	1986	1997

Table 11 (continued)
REORGANIZATION PROCEEDINGS UNDER CHAPTER 11
OF THE BANKRUPTCY CODE IN WHICH
THE SEC ENTERED APPEARANCE

Debtor	District	FY Opened	FY Closed
Damson Oil Co. <u>1/</u>	S.D. TX	1991	1997
Dest Corp. <u>1/</u>	N.D. CA	1989	1997
Eagle-Pitcher Industries, Inc. <u>1/</u>	S.D. OH	1991	1997
Eastern Air Lines, Inc., et al. <u>1/</u>	S.D. NY	1989	
Edison Brothers Stores, Inc. <u>1/</u>	D. DE	1996	1997
First City Bancorporation of Texas, Inc.	N.D. TX	1994	
First Connecticut Small Business Investments Company	D. CT	1991	1997
First Merchants Acceptance Corp.	D. DE	1997	
First Republicbank Corp. <u>1/</u>	N.D. TX	1989	1997
Fruehauf Trailer Corp.	D. DE	1997	
Future Communications, Inc.	W.D. OH	1994	
Gander Mountain, Inc.	E.D. WI	1996	
Great American Recreation, Inc.	D. NJ	1996	
Grossman's Inc.	D. DE	1997	
The Group, Inc. <u>3/</u>	D. NV	1990	1997
Hamburger Hamlet Restaurants, Inc.	C.D. CA	1996	
Home Theater Products International, Inc.	C.D. CA	1996	
House of Fabrics, Inc. <u>1/</u>	C.D. CA	1995	1997
I C H Corp.	N.D. TX	1996	
Integra-A Hotel and Restaurant, Co. <u>1/</u>	D. CO	1993	1997

Table 11 (continued)
REORGANIZATION PROCEEDINGS UNDER CHAPTER 11
OF THE BANKRUPTCY CODE IN WHICH
THE SEC ENTERED APPEARANCE

Debtor	District	FY Opened	FY Closed
International Tourist Entertainment Corp.	W.D. MI	1996	
Jayhawk Acceptance Corp.	N.D. TX	1997	
King of Video, Inc.	D. NV	1989	
Leslie Fay Companies, Inc. <u>1/</u>	S.D. NY	1993	1997
Library Bureau, Inc. <u>2/</u>	N.D. NY	1993	1997
LifeCo Investment Group, Inc. <u>1/</u>	D. GA	1995	1997
Marvel Entertainment Group, Inc., et al.	D. DE	1997	
MCorp (MCorp Financial, Inc. & MCorp Management)	S.D. TX	1989	
Media Vision Technology, Inc.	N.D. CA	1994	
Megafoods Stores, Inc.	D. AZ	1995	
Midwest Communications Corp. <u>1/</u>	E.D. KY	1991	1997
Monarch Capitol Corp. <u>1/</u>	D. MA	1991	1997
National Gypsum Co.	N.D. TX	1991	
Neostar Retail Group, Inc.	N.D. TX	1997	
NVF Company <u>1/</u>	D. DE	1994	1997
Omega Environmental, Inc.	W. W	1997	
Packaging Research Corp.	D. CO	1997	
PanAm Corporation <u>1/</u>	S.D. NY	1991	1997
Payless Cashways, Inc.	W. MO	1997	
PCA Industries, Inc.	E.D. WI	1997	

Table 11 (continued)
REORGANIZATION PROCEEDINGS UNDER CHAPTER 11
OF THE BANKRUPTCY CODE IN WHICH
THE SEC ENTERED APPEARANCE

Debtor	District		FY Opened	FY Closed
Penn Pacific Corp.	E.D. OK		1994	
Phar-Mor, Inc. <u>1/</u>	N.D. OH		1994	1997
Physician Clinical Labortary, Inc.	C.D. CA		1997	
Protech Inc. d.b.a. Omega Test Systems <u>3/</u>	W. TX		1997	1997
Public Service Co. of New Hampshire <u>1/</u>	D. NH		1988	1997
RDM Sports Group, Inc. Reconversion	N.D. GA		1997	
Technologies, Inc., et al.	N.D. OK		1997	
Rymer Foods, Inc.	N.D. IL		1993	
Sizzler International, Inc. <u>1/</u>	C.D. CA		1996	1997
Solv-ex Corp.	D. NM		1997	
Southland Corp.	N.D. TX		1991	
Spencer Cos., Inc. <u>1/</u>	D. MA		1987	1997
Standard Oil and Exploration of Delaware, Inc.	W.D. MI		1991	
Stratosphere Corp.	D. NV		1997	
Sterling Optical Corp.	S.D. NY		1992	
Telstar Satellite Corp. of America <u>4/</u>	C.D. CA		1989	1997
TSL Holdings, Inc. <u>1/</u>	S.D. CA		1993	1997
USA Classic, Inc. <u>2/</u>	S.D. NY		1994	1997
Value Merchants, Inc. <u>2/</u>	E.D. WI		1994	1997
Wedgestone Financial	D. MA		1991	1997

Table 11 (continued)
 REORGANIZATION PROCEEDINGS UNDER CHAPTER 11
 OF THE BANKRUPTCY CODE IN WHICH
 THE SEC ENTERED APPEARANCE

Debtor	District	FY Opened	FY Closed
Western Fidelity Funding, Inc.	D. CO	1997	
Westmoreland Coal Company	D. CO	1997	
WRT Energy Corp.	W.D. LA	1996	
Total Cases Opened (FY 1997)		31	
Total Cases Closed (FY 1997)			41

1/ Chapter 11 plan confirmed.

2/ Debtor liquidated under Chapter 7.

3/ Chapter 11 case dismissed.

4/ Debtor's securities not registered under section 12(g) of the Securities Exchange Act of 1934.

The Securities Industry

Revenues, Expenses, and Selected Balance Sheet Items

Broker-dealers registered with the Securities and Exchange Commission earned a pre-tax profit of \$17.0 billion in calendar year 1996. This was \$5.6 billion more than that earned the previous year. The pre-tax return on equity capital of 27.3% was better than the average results of the previous decade.

The most important factor affecting broker-dealer profits was record transaction activity. Sales of mutual funds grew by 45% in 1996. Sales of equity funds, which typically generate more revenues than bond funds, contributed disproportionately to this growth. The dollar value of equity trades executed on the exchanges and the Nasdaq increased by 30%. The amount of margin debt outstanding grew proportionately. This increase in transactions translated into revenue growth. Securities commissions rose by \$4.6 billion to \$27.8 billion in 1996. Margin interest of \$7.4 billion represented an increase of \$0.9 billion. Revenues from retailing mutual funds grew by \$2.6 billion to \$10.1 billion.

Investment banking also was an important profit center in 1996. The value of new equity offerings increased by over 50% while that for new debt offerings grew by over 30%. The result was a \$3.8 billion increase in profits from underwriting to \$12.6 billion.

“All other revenues” grew by \$15.8 billion to \$84.3 billion in 1996. These revenues are comprised primarily of interest income from securities purchased under agreements to resell and fees from handling private placements, mergers, and acquisitions. These underlying business segments showed substantial growth in 1996. Announced mergers and acquisitions deals rose by 25%, the dollar value of private placements grew by almost 60%, and the dollar value of reverse repurchase agreements rose 15%.

Proprietary trading gains were \$30.7 billion in 1996. This was only modestly larger than exceptionally high profits earned in 1995, when declining interest rates drove up the value of the bond inventory maintained by securities firms.

Expenses rose 18% to \$156.0 billion in 1996, primarily due to higher employee compensation. Interest expense, the largest expense item in 1996, increased by \$8.3 billion (14.6%) to \$65.2 billion. Employee compensation rose 22.9% to \$51.1 billion. Total assets grew by \$255.1 billion to \$1,748.8 billion. Equity capital increased by \$6.9 billion to \$65.6 billion.

Table 12
UNCONSOLIDATED FINANCIAL INFORMATION FOR BROKER-DEALERS
1992 – 1996 1/
(\$ in Millions)

	1992	1993	1994	1995 ^r	1996 ^p
Revenues					
Securities Commissions	\$ 16,248.9	\$ 19,904.8	\$ 19,846.7	\$ 23,214.8	\$ 27,836.8
Gains (Losses) in Trading and Investment Accounts	21,838.3	25,427.2	20,218.6	28,962.7	30,701.6
Profits (Losses) from Underwriting and Selling Groups	8,299.7	11,248.7	6,843.8	8,865.2	12,624.2
Margin Interest	2,689.6	3,235.2	4,668.4	6,470.2	7,390.1
Revenues from Sale of Investment Company Shares	5,950.1	8,115.3	6,887.2	7,433.5	10,079.3
All Other Revenues	35,557.4	40,912.6	54,293.4	68,467.6	84,288.9
Total Revenues	\$ 90,584.0	\$ 108,843.7	\$ 112,758.1	\$ 143,414.0	\$ 172,921.1
Expenses					
Registered Representatives' Compensation (Part II Only) 2/	\$ 12,111.1	\$ 14,696.0	\$ 13,711.0	\$ 15,526.5	\$ 18,803.5
Other Employee Compensation and Benefits	17,066.9	20,931.3	20,552.2	22,285.4	27,901.0
Compensation to Partners and Voting Stockholder Officers	2,892.9	3,498.0	3,332.4	3,729.3	4,366.3
Commissions and Clearance Paid to Other Brokers	3,722.1	5,337.8	5,360.3	5,700.2	7,350.6
Interest Expenses	24,576.3	26,615.6	40,250.4	56,877.0	65,204.1
Regulatory Fees and Expenses	639.2	629.7	627.8	674.1	671.1
All Other Expenses 2/	20,459.0	24,096.7	25,431.8	27,296.4	31,671.9
Total Expenses	\$ 81,467.4	\$ 95,805.1	\$ 109,265.9	\$ 132,088.9	\$ 155,968.4
Income and Profitability					
Pre-tax Income	\$ 9,116.6	\$ 13,038.6	\$ 3,492.2	\$ 11,325.1	\$ 16,952.7
Pre-tax Profit Margin	10.1	12.0	3.1	7.9	9.8
Pre-tax Return on Equity	22.0	26.7	6.5	20.1	27.3
Assets, Liabilities and Capital					
Total Assets	\$978,635.0	\$1,240,159.8	\$1,251,741.0	\$1,493,643.9	\$1,748,780.4
Liabilities					
(a) Unsubordinated Liabilities	916,545.3	1,160,456.0	1,169,136.6	1,403,655.1	1,646,557.9
(b) Subordinated Liabilities	18,155.8	25,787.6	28,809.7	31,279.2	36,631.7
(c) Total Liabilities	934,701.1	1,186,243.6	1,197,946.3	1,434,934.3	1,683,189.6
Ownership Equity	\$ 43,933.9	\$ 53,916.2	\$ 53,794.7	\$ 58,709.5	\$ 65,591.0
Number of Firms	7,793	7,674	7,632	7,722	7,776

Figures may not add due to rounding.

r = revised

p = preliminary

1/ Calendar, rather than fiscal, year data is reported in this table.

2/ Registered representatives' compensation for firms that neither carry nor clear is included in "other expenses" as this expense item is not reported separately on Part IIA of the FOCUS Report

Source: FOCUS Report

Table 13
UNCONSOLIDATED ANNUAL REVENUES AND EXPENSES FOR BROKER-DEALERS
DOING A PUBLIC BUSINESS
1992 – 1996 1/
(\$ in Millions)

	1992	1993	1994	1995 ^r	1996 ^p
<u>Revenues</u>					
Securities Commissions	\$15,499.7	\$ 19,341.1	\$ 19,246.6	\$ 22,616.7	\$ 27,245.1
Gains (Losses) in Trading and Investment Accounts	20,790.7	24,042.5	18,918.3	27,088.1	28,348.3
Profits (Losses) from Underwriting and Selling Groups	8,202.8	11,248.6	6,840.5	8,865.0	12,615.0
Margin Interest	2,651.7	3,229.1	4,651.1	6,439.4	7,357.9
Revenues from Sale of Investment Company Shares	5,851.9	8,115.3	6,876.4	7,433.4	10,079.3
All Other Revenues	34,745.5	40,086.3	53,121.4	67,493.1	82,751.6
Total Revenues	\$87,742.2	\$106,062.9	\$109,654.3	\$139,935.6	\$168,397.3
<u>Expenses</u>					
Registered Representatives' Compensation (Part II only) 2/	\$11,791.1	\$ 14,671.9	\$13,689.0	\$ 15,506.2	\$ 18,676.7
Other Employee Compensation and Benefits	16,601.4	20,514.9	20,070.8	21,860.6	27,427.4
Compensation to Partners and Voting Stockholder Officers	2,695.5	3,293.4	3,096.1	3,511.3	4,120.6
Commissions and Clearance Paid to Other Brokers	3,500.0	5,083.3	5,088.4	5,457.4	7,104.2
Interest Expenses	24,235.8	26,222.9	39,582.1	55,823.3	63,603.6
Regulatory Fees and Expenses	580.0	573.3	534.6	616.2	623.4
All Other Expenses 2/	19,777.9	23,548.2	24,832.5	26,670.8	30,998.4
Total Expenses	\$79,181.7	\$ 93,908.0	\$106,893.5	\$129,445.9	\$152,554.3
<u>Income and Profitability</u>					
Pre-tax Income	\$ 8,560.5	\$ 12,154.9	\$ 2,760.8	\$ 10,489.7	\$ 15,843.0
Pre-tax Profit Margin	9.8	11.5	2.5	7.5	9.4
Pre-tax Return on Equity	22.2	26.5	5.4	19.7	26.7
Number of Firms	5,091	5,139	5,237	5,310	5,402

Figures may not add due to rounding.

r = revised

p = preliminary

1/ Calendar, rather than fiscal, year data is reported in this table

2/ Registered representatives' compensation for firms that neither carry nor clear is included in "other expenses" as this expense item is not reported separately on Part IIA of the FOCUS Report.

Source: FOCUS Report

Table 14
**UNCONSOLIDATED BALANCE SHEET FOR BROKER-DEALERS
DOING A PUBLIC BUSINESS**
YEAR-END, 1992 – 1996 1/
(\$ in Millions)

	1992	1993	1994	1995 ^r	1996 ^p
Assets					
Cash	\$ 11,024.4	\$ 13,128.1	\$ 13,500.4	\$ 14,862.7	\$ 16,852.7
Receivables from Other Broker-dealers	216,793.7	289,168.0	342,000.1	358,556.9	477,807.8
Receivables from Customers	49,333.5	68,526.1	66,911.6	71,004.2	87,064.7
Receivables from Non-customers	4,326.7	6,412.5	7,258.1	7,421.0	7,079.6
Long Positions in Securities and Commodities	294,294.5	363,864.3	317,625.7	422,868.7	448,635.1
Securities and Investments not Readily Marketable	2,376.0	4,124.4	4,481.1	5,366.2	5,455.0
Securities Purchased Under Agreements to Resell (Part II only) 2/	350,487.8	439,431.4	437,805.6	544,832.3	624,332.3
Exchange Membership	315.3	323.1	353.7	424.1	464.6
Other Assets 2/	26,502.9	30,615.8	33,818.8	34,206.1	36,237.0
Total Assets	\$955,454.8	\$1,215,593.8	\$1,233,755.0	\$1,459,542.3	\$1,703,928.8
Liabilities and Equity Capital					
Bank Loans Payable	\$ 33,908.8	\$ 41,991.9	\$ 34,471.4	\$ 45,717.6	\$ 58,285.6
Payables to Other Broker-dealers	68,569.0	105,115.2	130,736.4	152,328.8	207,737.8
Payables to Non-customers	6,607.7	10,836.0	11,921.5	14,943.8	18,282.5
Payables to Customers	70,089.7	90,942.9	98,534.4	111,489.9	143,516.1
Short Positions in Securities and Commodities	157,295.6	199,509.5	196,807.5	195,149.3	236,917.7
Securities Sold Under Repurchase Agreements (Part II only) 2/	500,714.1	607,827.1	591,423.1	767,676.1	832,532.0
Other Non-subordinated Liabilities 2/	59,534.8	83,124.4	80,846.3	85,389.4	107,873.5
Subordinated Liabilities	17,726.5	25,370.6	28,493.5	30,931.3	36,230.6
Total Liabilities	\$914,446.1	\$1,164,717.6	\$1,173,234.6	\$1,403,626.3	\$1,641,375.7
Equity Capital	\$ 41,008.7	\$ 50,876.2	\$ 50,520.4	\$ 55,916.0	\$ 62,553.1
Number of firms	5,091	5,139	5,237	5,310	5,402

Figures may not add due to rounding

r = revised

p = preliminary

1/ Calendar, rather than fiscal, year data is reported in this table.

2/ Resale agreements and repurchase agreements for firms that neither carry nor clear are included in "other assets" and "other non-subordinated liabilities," respectively, as these items are not reported separately on Part IIA of the FOCUS Report

Source FOCUS Report

Carrying and Clearing Firms

Data for carrying and clearing firms that do a public business is presented in more detail. Reporting requirements for firms that neither carry nor clear are less detailed. Carrying and clearing firms clear securities transactions or maintain possession or control of customers' cash or securities. These firms produced 82% of the securities industry's total revenues in calendar year 1996.

Brokerage activity accounted for about 23 cents of each revenue dollar in 1996, virtually identical to the level in 1995. Securities commissions remained the most important component, producing 14 cents of each dollar of revenue. Margin interest generated about 5 cents of each dollar of revenue, while revenues from mutual fund sales accounted for about 4 cents.

The dealer side produced 67 cents of each dollar of revenue in 1996, down from 68 cents in 1995. Seventeen cents came from trading and investments, an increase from 20 cents in 1995. Eight cents came from underwriting, up one cent from 1995. Forty-one cents came from other securities-related revenues, almost identical to that in 1995. This revenue item is comprised primarily of interest income from securities purchased under agreements to resell and fees from handling private placements, mergers, and acquisitions.

Expenses accounted for 91 cents of each revenue dollar in 1996, resulting in a pre-tax profit margin of 9 cents per revenue dollar, about 2 cents higher than that in 1995. Interest expense was the most important expense item, accounting for 44 cents of each revenue dollar in 1996 compared to 46 cents in 1995. Employee-related expenses--compensation received by registered representatives, partners and other employees--consumed 29 cents of each revenue dollar in 1996, compared to 28 cents in 1995.

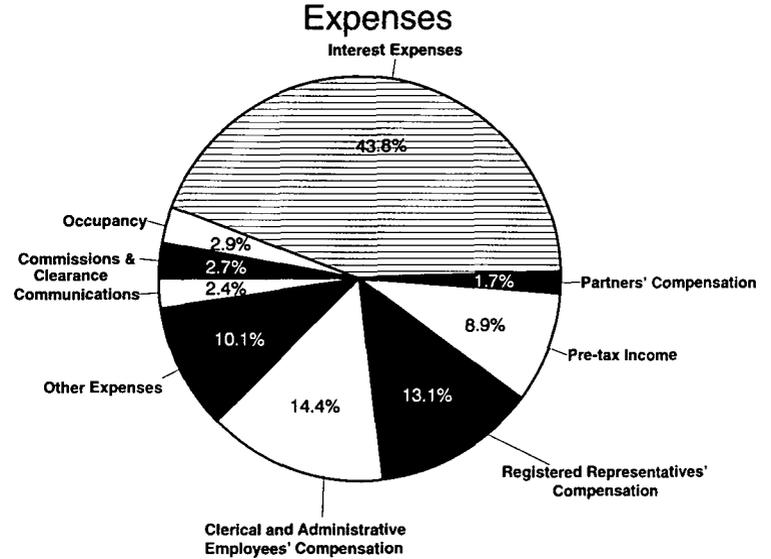
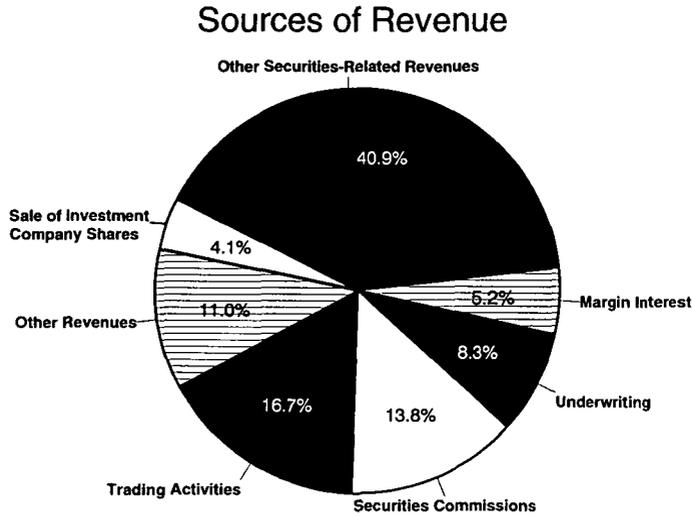
Total assets of broker-dealers carrying and clearing customer accounts were \$1,651 billion at year-end 1996, a 16% increase from 1995. Relative to other assets, the value of inventory on the books of broker-dealers declined during 1996, while the value of receivables from customers and other broker-dealers increased.

Total liabilities also increased by about 16% to \$1,601 billion in 1996. Owners' equity rose 10% to \$50.1 billion.

Table 15

Securities Industry Dollar in 1996

For Carrying/Clearing Firms



Figures may not sum to 100% due to rounding

Note: Includes information for firms doing a public business that carry customer accounts or clear securities transactions.

SOURCE: FOCUS REPORTS

Table 16
UNCONSOLIDATED REVENUES AND EXPENSES FOR
CARRYING/CLEARING BROKER-DEALERS 1/
(\$ in Millions)

	1995 ^r		1996 ^p		Percent Change 1995-1996
	Dollars	Percent of Total Revenues	Dollars	Percent of Total Revenues	
Revenues					
Securities Commissions	\$ 16,424.3	13.8%	\$ 19,561.3	13.8%	19.1%
Gains (Losses) in Trading and Investment Accounts	23,236.2	19.5	23,743.4	16.7	2.2
Profits (Losses) from Under- writing and Selling Groups	8,194.5	6.9	11,765.1	8.3	43.6
Margin Interest	6,439.4	5.4	7,357.9	5.2	14.3
Revenues from Sale of Invest- ment Company Shares	4,392.9	3.7	5,901.4	4.1	34.3
Miscellaneous Fees	5,176.9	4.3	6,375.1	4.5	23.1
Revenues from Research	31.3	0.0	111.7	0.1	256.9
Other Securities Related Revenues	49,380.0	41.4	58,133.4	40.9	17.7
Commodities Revenues	(93.4)	-0.1	1,619.5	1.1	-1,833.9
All Other Revenues	6,011.2	5.0	7,649.4	5.4	27.3
Total Revenues	\$119,193.3	100.0%	\$142,218.2	100.0%	19.3%
Expenses					
Registered Representatives' Compensation	\$ 15,506.2	13.0%	\$ 18,676.7	13.1%	20.4%
Other Employee Compensation and Benefits	16,301.1	13.7	20,514.5	14.4	25.8
Compensation to Partners and Voting Stockholder Officers	2,117.8	1.8	2,368.9	1.7	11.9
Commissions and Clearance Paid to Other Brokers	3,322.0	2.8	3,818.3	2.7	14.9
Communications	3,146.3	2.6	3,436.8	2.4	9.2
Occupancy and Equipment Costs	3,814.8	3.2	4,085.5	2.9	7.1
Data Processing Costs	1,421.3	1.2	1,701.3	1.2	19.7
Interest Expenses	54,757.5	45.9	62,342.9	43.8	13.9
Regulatory Fees and Expenses	481.2	0.4	468.7	0.3	-2.6
Losses in Error Accounts and Bad Debts	305.9	0.3	332.4	0.2	8.7
All Other Expenses	10,104.1	8.5	11,857.8	8.3	17.4
Total Expenses	\$111,278.1	93.4%	\$129,603.7	91.1%	16.5%
Income and Profitability					
Pre-tax Income	\$ 7,915.2	6.6%	\$ 12,614.4	8.9%	59.4%
Pre-tax Profit Margin	6.6		8.9		
Pre-tax Return on Equity	18.1		26.4		
Number of Firms	773		761		

Figures may not add due to rounding.

r = revised

p = preliminary

1/ Calendar, rather than fiscal, year data is reported in this table

Note: Includes information for firms doing a public business that carry customer accounts or clear securities transactions.

Source: FOCUS Report

Table 17
UNCONSOLIDATED BALANCE SHEET FOR CARRYING/CLEARING
BROKER-DEALERS 1/
(\$ in Millions)

	1995 ^r		1996 ^r		Percent Change 1995-1996
	Dollars	Percent of Total Assets	Dollars	Percent of Total Assets	
Assets					
Cash	\$ 13,546 0	1.0%	\$ 15,347.5	0.9%	13.3%
Receivables from Other Broker-dealers	349,262 8	24.6	458,447 0	27.8	31.3
(a) Securities Failed to Deliver	6,088 1	0.4	7,381.3	0.4	21.2
(b) Securities Borrowed	324,973 2	22.9	426,884 6	25.9	31.4
(c) Other	18,201.4	1.3	24,181.1	1.5	32.9
Receivables from Customers	71,004 2	5.0	87,064.7	5.3	22.6
Receivables from Non-customers	6,831 0	0.5	6,475.1	0.4	-5.2
Long Positions in Securities and Commodities	401,749 6	28.3	422,449 8	25.6	5.2
(a) Bankers Acceptances, Certificates of Deposit and Commercial Paper	19,610.1	1.4	20,976 8	1.3	7.0
(b) U.S. and Canadian Government Obligations	248,828 9	17.5	253,070 8	15.3	1.7
(c) State and Municipal Government Obligations	12,722 9	0.9	10,829.6	0.7	-14.9
(d) Corporate Obligations	69,445.4	4.9	83,813 7	5.1	20.7
(e) Stocks and Warrants	33,741 5	2.4	37,535.3	2.3	11.2
(f) Options	5,586 9	0.4	6,476.7	0.4	15.9
(g) Arbitrage	9,182 5	0.6	7,089 4	0.4	-22.8
(h) Other Securities	2,075 2	0.1	2,303 7	0.1	11.0
(i) Spot Commodities	556.4	0.0	353 7	0.0	-36.4
Securities and Investments Not Readily Marketable	4,990 3	0.4	4,877.3	0.3	-2.3
Securities Purchased Under Agreements to Resell	544,832.3	38.4	624,332 3	37.8	14.6
Exchange Membership	374 8	0.0	404 1	0.0	7.8
Other Assets	27,880 2	2.0	31,887 8	1.9	14.4
Total Assets	\$1,420,471 2	100.0%	\$1,651,285 7	100.0%	16.2%
Liabilities and Equity Capital					
Bank Loans Payable	\$ 45,440 9	3.2%	\$ 57,630 8	3.5%	26.8%
Payables to Other Broker-dealers	141,258 0	9.9	190,510 1	11.5	34.9
(a) Securities Failed to Receive	6,321 6	0.4	9,216 9	0.6	45.8
(b) Securities Loaned	110,396 3	7.8	158,123 3	9.6	43.2
(c) Other	24,540 1	1.7	23,169.9	1.4	-5.6
Payables to Non-customers	14,671 7	1.0	17,853 0	1.1	21.7
Payables to Customers	111,489 9	7.8	143,516 1	8.7	28.7
Short Positions in Securities and Commodities	181,772 7	12.8	219,192.7	13.3	20.6
Securities Sold Under Repurchase Agreements (Part II Only)	767,676.1	54.0	832,532 0	50.4	8.4
Other Non-subordinated Liabilities	82,762.4	5.8	104,857 4	6.4	26.7
Subordinated Liabilities	29,768.8	2.1	35,132.0	2.1	18.0
Total Liabilities	\$1,374,840 6	96.8%	\$1,601,224 1	97.0%	16.5%
Equity Capital	\$ 45,630 6	3.2%	\$ 50,061 5	3.0%	9.7%
Number of Firms	773		761		

Figures may not add due to rounding

r = revised

p = preliminary

1/ Calendar, rather than fiscal, year data is reported in this table

Note: includes information for firms doing a public business that carry customer accounts or clear securities transactions

Source: FOCUS Report

Securities Traded on Exchanges

Market Value and Volume

The market value of equity and option transactions (trading in stocks, options, warrants, and rights) on registered exchanges totaled \$4.7 trillion in 1996. Of this total, approximately \$4.5 trillion, or 96%, represented the market value of transactions in stocks, rights, and warrants; \$208 billion, or 4%, were options transactions (including exercises of options on listed stocks).

The value of equity and option transactions on the New York Stock Exchange (NYSE) was \$4.0 trillion, up 30.4% from the previous year. The market value of such transactions on the American Stock Exchange (AMEX) increased 24.5% to \$131.2 billion and increased 16.3% to \$575.2 billion on all other exchanges. The volume of trading in stocks (excluding rights and warrants) on all registered exchanges totaled 125.7 billion shares, an 18.2% increase from the previous year, with 86% of the total accounted for by trading on the NYSE.

The volume of options contracts traded (excluding exercised contracts) was 294.8 million contracts in 1996, 2.6% greater than in 1995. The market value of these contracts increased 24.6% to \$148.1 billion. The volume of contracts executed on the Chicago Board Options Exchange decreased 2.6% to 173.9 million. Options trading on the AMEX and Pacific Stock Exchange rose 17.4% and 9.6% respectively while options trading on the Philadelphia Stock Exchange decreased 2.6%.

Nasdaq (Share Volume and Dollar Volume)

Nasdaq share volume and dollar value information has been reported on a daily basis since November 1, 1971. At the end of 1996, there were 6,384 issues in the Nasdaq system, as compared to 5,955 a year earlier and 3,050 at the end of 1980.

Share volume for 1996 was 138.1 billion, as compared to 101.2 billion in 1995 and 6.7 billion in 1980. The dollar volume of shares traded in the Nasdaq system was \$3.3 trillion during 1996, as compared to \$2.4 trillion in 1995 and 68.7 billion in 1980.

Share and Dollar Volume by Exchange

Share volume on all registered stock exchanges totaled 125.9 billion, an increase of 17.6% from the previous year. The NYSE accounted for 86% of the 1996 share volume; the AMEX, 4%; the Chicago Stock Exchange, 3%, and the Pacific Stock Exchange, 2%.

The dollar value of stocks, rights, and warrants traded was \$4.5 trillion, 29% higher than the previous year. Trading on the NYSE contributed 89% of the total. The Chicago Stock Exchange and Pacific Stock Exchange contributed 3% and 2% respectively. The AMEX accounted for 2% of dollar volume.

Table 18
MARKET VALUE OF EQUITY/OPTIONS SALES ON U.S. EXCHANGES 1/
(\$ in Thousands)

	Total Market Value	Stocks 2/	Warrants	Rights	Equity Options		Non-Equity Options 3/	
					Traded	Exercised		
All Registered Exchanges for Past Six Years								
Calendar Year:	1991	1,899,984,720	1,776,031,389	1,849,922	272,762	27,104,021	45,714,219	49,012,406
	1992	2,148,790,741	2,031,942,219	658,074	83,842	26,585,937	39,172,724	45,590,003
	1993	2,728,667,287	2,609,854,352	584,699	65,339	33,779,350	42,983,539	41,400,009
	1994	2,956,599,170	2,816,810,031	678,024	183,095	35,883,322	44,457,669	58,587,028
	1995	3,678,326,943	3,506,785,001	970,523	235,647	50,802,752	51,461,348	68,071,671
	1996	4,719,336,203	4,510,874,989	869,986	34,861	67,861,575	59,451,448	80,243,345
Breakdown of 1996 Data by Registered Exchanges								
All Registered Exchanges								
Exchanges:	AMEX	131,195,628	86,044,213	251,172	6,277	22,072,514	18,921,207	3,900,245
	BSE	59,737,641	59,737,641	0	0	0	0	0
	CHX 4/	135,603,701	135,603,701	0	0	0	0	0
	CSE	73,378,368	73,378,368	0	0	0	0	0
	NYSE	4,012,960,617	4,010,627,221	590,092	28,051	874,631	824,825	15,797
	PSE	108,175,728	91,628,734	24,896	532	10,232,193	6,249,287	40,085
	PHLX	68,127,328	53,845,350	3,825	0	4,659,843	6,864,969	2,753,341
	CBOE	130,157,193	9,762	0	0	30,022,394	26,591,159	73,533,877

Figures may not sum due to rounding

1/ Data on the value and volume of equity security sales is reported in connection with fees paid under Section 31 of the Securities Exchange Act of 1934 as amended by the Securities Acts Amendments of 1975.

It covers odd-lot as well as round-lot transactions.

2/ Includes voting trust certificates, certificate of deposit for stocks, and American Depositary Receipts for stocks but excludes rights and warrants

3/ Includes all exchange trades of call and put options in stock indices, interest rates, and foreign currencies

4/ The Chicago Stock Exchange was formerly the Midwest Stock Exchange. The name change took effect on June 11, 1993

Table 19
VOLUME OF EQUITY/OPTIONS SALES ON U.S. SECURITIES EXCHANGES 1/
(in Thousands)

		Stocks 2/ (Shares)	Warrants (Units)	Rights (Units)	Equity Options		Non-Equity Options 3/ (Contracts)
					Traded (Contracts)	Exercised (Contracts)	
All Registered Exchanges for Past Six Years							
Calendar Year.	1991	58,025,434	200,028	65,179	104,851	9,851	93,923
	1992	65,462,698	184,205	58,133	106,485	8,689	95,490
	1993	82,808,842	166,223	81,172	131,726	9,973	100,871
	1994	90,481,798	171,462	133,343	149,933	10,544	131,448
	1995	106,392,534	405,123	271,999	174,380	11,779	112,917
	1996	125,746,598	136,314	39,666	199,117	12,446	95,680
Breakdown of 1996 Data by All Registered Exchanges							
Exchanges	All Registered Exchanges						
	AMEX*	5,306,489	90,636	4,716	57,082	3,532	4,511
	BSE*	1,627,179	0	0	0	0	0
	CHX 4/	4,246,916	0	0	0	0	0
	CSE*	1,789,299	0	0	0	0	0
	NYSE*	108,150,952	42,745	33,959	3,414	254	25
	PSE	3,012,569	2,381	990	33,839	1,544	43
	PHLX*	1,612,340	552	0	16,325	1,708	5,613
	CBOE*	854	0	1	88,457	5,408	85,488

Figures may not sum due to rounding

* Data of those exchanges marked with asterisk covers transactions cleared during the calendar month; clearance usually occurs within five days of the execution of a trade. Data of other exchanges covers transactions effected on trade dates falling within the reporting month.

1/ Data on the value and volume of equity security sales is reported in connection with fees paid under Section 31 of the Securities Exchange Act of 1934 as amended by the Securities Acts Amendments of 1975. It covers odd-lot as well as round-lot transactions.

2/ Includes voting trust certificates, certificate of deposit for stocks, and American Depositary Receipts for stocks but excludes rights and warrants.

3/ Includes all exchange trades of call and put options in stock indices, interest rates, and foreign currencies

4/ The Chicago Stock Exchange was formerly the Midwest Stock Exchange. The name change took effect on June 11, 1993

Source: SEC Form R-31 and Options Clearing Corporation Statistical Report

Table 20
SHARE VOLUME BY EXCHANGES 1/
(In Percentage)

Year	Total Share Volume (in Thousands)	NYSE	AMEX	CHIC	PSE	PHLX	BSE	CSE	Others 2/
1945	769,018	65.87	21.31	1.77	2.98	1.06	0.66	0.05	6.30
1950	893,320	76.32	13.54	2.16	3.11	0.97	0.65	0.09	3.16
1955	1,321,401	68.85	19.19	2.09	3.08	0.85	0.48	0.05	5.41
1960	1,441,120	68.47	22.27	2.20	3.11	0.88	0.38	0.04	2.65
1961	2,142,523	64.99	25.58	2.22	3.41	0.79	0.30	0.04	2.67
1962	1,711,945	71.31	20.11	2.34	2.95	0.87	0.31	0.04	2.07
1963	1,880,793	72.93	18.83	2.32	2.82	0.83	0.29	0.04	1.94
1964	2,118,326	72.81	19.42	2.43	2.65	0.93	0.29	0.03	1.44
1965	2,671,012	69.90	22.53	2.63	2.33	0.81	0.26	0.05	1.49
1966	3,313,899	69.38	22.84	2.56	2.68	0.86	0.40	0.05	1.23
1967	4,646,553	64.40	28.41	2.35	2.46	0.87	0.43	0.02	1.06
1968	5,407,923	61.98	29.74	2.63	2.64	0.89	0.78	0.01	1.33
1969	5,134,856	63.16	27.61	2.84	3.47	1.22	0.51	0.00	1.19
1970	4,834,887	71.28	19.03	3.16	3.68	1.63	0.51	0.02	0.69
1971	6,172,668	71.34	18.42	3.52	3.72	1.91	0.43	0.03	0.63
1972	6,518,132	70.47	18.22	3.71	4.13	2.21	0.59	0.03	0.64
1973	5,899,678	74.92	13.75	4.09	3.68	2.19	0.71	0.04	0.62
1974	4,950,842	78.47	10.28	4.40	3.48	1.82	0.86	0.05	0.64
1975	6,376,094	80.99	8.97	3.97	3.26	1.54	0.85	0.13	0.29
1976	7,129,132	80.05	9.35	3.87	3.93	1.42	0.78	0.44	0.16
1977	7,124,640	79.71	9.56	3.96	3.72	1.49	0.66	0.64	0.26
1978	9,630,065	79.53	10.65	3.56	3.84	1.49	0.60	0.16	0.17
1979	10,960,424	79.88	10.85	3.30	3.27	1.64	0.55	0.28	0.23
1980	15,587,986	79.94	10.78	3.84	2.80	1.54	0.57	0.32	0.21
1981	15,969,186	80.68	9.32	4.60	2.87	1.55	0.51	0.37	0.10
1982	22,491,935	81.22	6.96	5.09	3.62	2.18	0.48	0.38	0.07
1983	30,316,014	80.37	7.45	5.48	3.56	2.20	0.65	0.19	0.10
1984	30,548,014	82.54	5.26	6.03	3.31	1.79	0.85	0.18	0.04
1985	37,187,567	81.52	5.78	6.12	3.66	1.47	1.27	0.15	0.03
1986	48,580,524	81.12	6.28	5.73	3.68	1.53	1.33	0.30	0.02
1987	64,082,996	83.09	5.57	5.19	3.23	1.30	1.28	0.30	0.04
1988	52,665,654	83.74	4.95	5.26	3.03	1.29	1.32	0.39	0.02
1989	54,416,790	81.33	6.02	5.44	3.34	1.80	1.64	0.41	0.02
1990	53,746,087	81.86	6.23	4.68	3.16	1.82	1.71	0.53	0.01
1991	58,290,641	82.01	5.52	4.66	3.59	1.60	1.77	0.86	0.01
1992	65,705,037	81.34	5.74	4.62	3.19	1.72	1.57	1.83	0.01
1993	83,056,237	82.90	5.53	4.57	2.81	1.55	1.47	1.17	0.00
1994	90,786,603	84.55	4.96	3.88	2.37	1.42	1.39	1.42	0.01
1995	107,069,656	84.49	4.78	3.67	2.56	1.39	1.45	1.66	0.00
1996	125,922,577	85.95	4.29	3.37	2.40	1.28	1.29	1.42	0.00

1/ Share volume for exchanges includes stocks, rights and warrants; calendar, rather than fiscal, year data is reported in this table.

2/ Includes all exchanges not listed individually.

Source SEC Form R-31

Table 21
DOLLAR VOLUME BY EXCHANGES 1/
(In Percentage)

Year	Total Dollar Volume (in Thousands)	NYSE	AMEX	CHIC	PSE	PHLX	BSE	CSE	Others 2/
1945	\$ 16,284,552	82.75	0 81	2.00	1.78	0.96	1.16	0 06	0.48
1950	21,808,284	85.91	6 85	2.35	2.19	1.03	1.12	0.11	0.44
1955	38,039,107	86.31	6.98	2.44	1.90	1.03	0.78	0.09	0 47
1960	45,309,825	83.80	9.35	2.72	1.94	1 03	0 60	0.07	0.49
1961	64,071,623	82.43	10.71	2 75	1.99	1 03	0 49	0.07	0.53
1962	54,855,293	86.32	6.81	2.75	2.00	1.05	0 46	0.07	0.54
1963	64,437,900	85.19	7.51	2 72	2.39	1 06	0 41	0.06	0.66
1964	72,461,584	83 49	8.45	3 15	2.48	1 14	0 42	0.06	0.81
1965	89,549,093	81.78	9.91	3.44	2 43	1.12	0.42	0.08	0.82
1966	123,697,737	79.77	11.84	3.14	2.84	1 10	0 56	0.07	0.68
1967	162,189,211	77.29	14.48	3.08	2.79	1 13	0 66	0.03	0 54
1968	197,116,367	73 55	17 99	3.12	2 65	1.13	1.04	0.01	0.51
1969	176,389,759	73 48	17.59	3.39	3.12	1.43	0 67	0.01	0.31
1970	131,707,946	78 44	11.11	3.76	3.81	1 99	0 67	0.03	0.19
1971	186,375,130	79.07	9.98	4 00	3.79	2.29	0.58	0.05	0.24
1972	205,956,263	77 77	10.37	4.29	3 94	2.56	0.75	0.05	0.27
1973	178,863,622	82.07	6.06	4.54	3.55	2 45	1.00	0.06	0 27
1974	118,828,270	83 63	4.40	4.90	3.50	2 03	1 24	0.06	0.24
1975	157,256,676	85.20	3.67	4.64	3.26	1.73	1.19	0.17	0.14
1976	195,224,812	84 35	3 88	4.76	3 83	1 69	0.94	0.53	0.02
1977	187,393,084	83.96	4.60	4 79	3.53	1 62	0 74	0.75	0.01
1978	251,618,179	83.67	6.13	4.16	3.64	1.62	0 61	0.17	0 00
1979	300,475,510	83.72	6.94	3 83	2.78	1.80	0.56	0 35	0 02
1980	476,500,688	83.53	7 33	4.33	2.27	1.61	0.52	0.40	0.01
1981	491,017,139	84.74	5.41	5.04	2 32	1.60	0.49	0.40	0.00
1982	603,094,266	85.32	3.27	5.83	3.05	1 59	0.51	0 43	0 00
1983	958,304,168	85.13	3.32	6.28	2 86	1.55	0.66	0.16	0.04
1984	951,318,448	85 61	2 26	6.57	2.93	1.58	0.85	0.19	0.00
1985	1,200,127,848	85.25	2.23	6.59	3.06	1.49	1.20	0 18	0.00
1986	1,707,117,112	85.02	2.56	6.00	3.00	1.57	1.44	0.41	0.00
1987	2,286,902,788	86.79	2.32	5.32	2.53	1.35	1 33	0.35	0.00
1988	1,587,950,769	86.81	1 96	5.46	2.62	1 33	1.34	0.49	0 00
1989	1,847,766,971	85.49	2 35	5.46	2.84	1 77	1.56	0 54	0 00
1990	1,616,798,075	86.15	2 33	4.58	2.77	1.79	1.63	0.74	0.00
1991	1,778,154,074	86 20	2.31	4.34	3.05	1.54	1.72	0 83	0.01
1992	2,032,684,135	86.47	2.07	4.28	2.87	1 70	1.52	1 09	0.00
1993	2,610,504,390	87.21	2 08	4.10	2.38	1.52	1.35	1.37	0.00
1994	2,817,671,150	88.08	2.01	3.49	2.09	1.34	1.31	1.68	0.00
1995	3,507,991,171	87.71	2.10	3.26	2.24	1.27	1.43	1 99	0.00
1996	4,511,779,836	88.91	1.91	3 01	2.03	1.19	1.32	1.63	0.00

1/ Dollar volume for exchanges includes stocks, rights and warrants; calendar, rather than fiscal, year data is reported in this table.

2/ Includes all exchanges not listed individually.

Table 22
SECURITIES LISTED ON EXCHANGES 1/
December 31, 1996

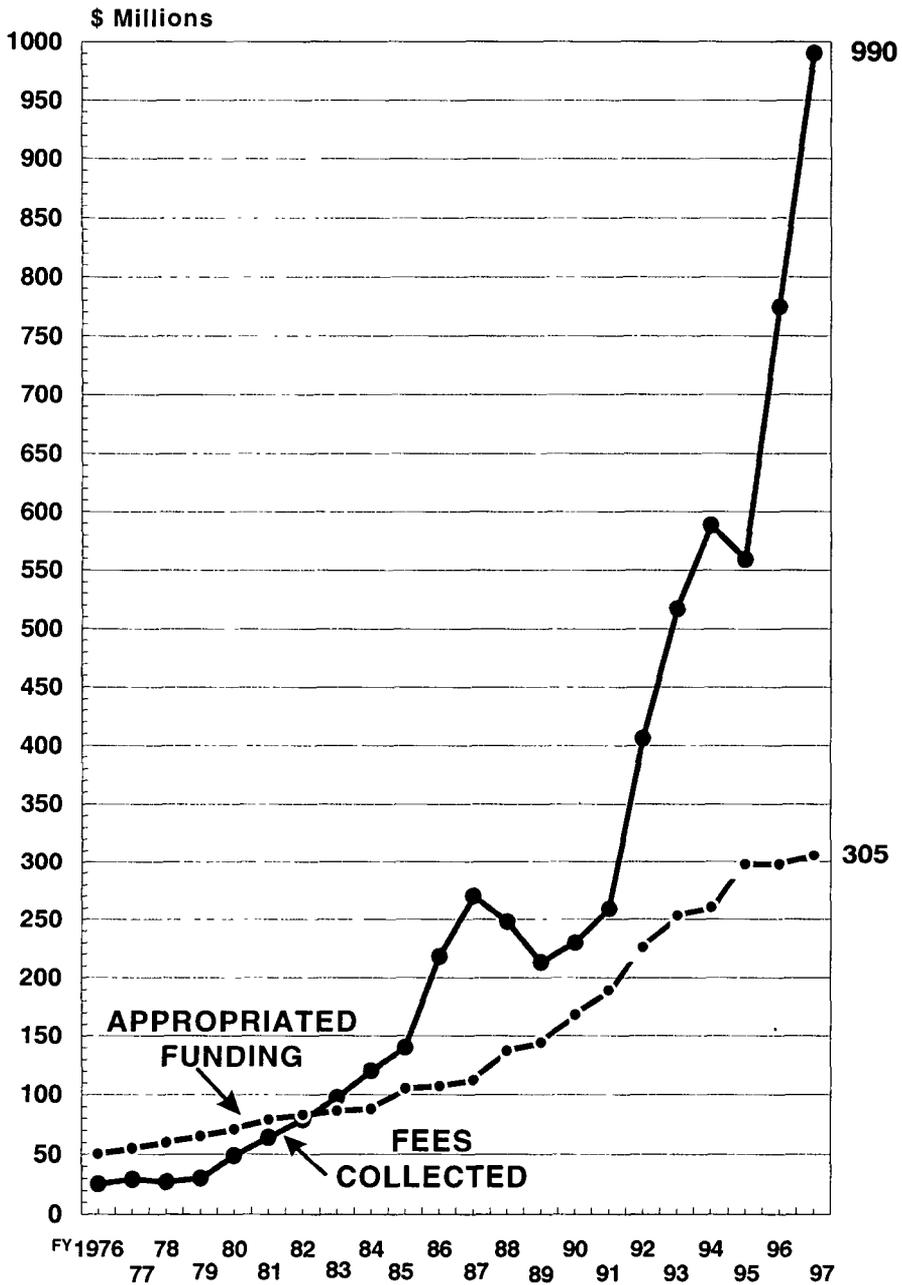
EXCHANGE	COMMON		PREFERRED		BONDS		TOTAL SECURITIES	
	Number	Market Value (in Millions)	Number	Market Value (in Millions)	Number	Market Value (in Millions)	Number	Market Value (in Millions)
Registered:								
Domestic Securities								
American	756	104,870	59	1,296	77	8,910	892	115,077
Boston	146	3,014	4	10	0	0	150	3,024
Cincinnati	0	0	0	0	0	0	0	0
Chicago	17	1,252	2	8	0	0	19	1,260
New York	2,460	6,896,266	459	51,401	1,843	2,809,427	4,762	9,757,093
Pacific	14	494	7	341	8	488	29	1,323
Philadelphia	11	340	28	327	4	32	43	700
Total	3,404	7,006,237	559	53,383	1,932	2,818,858	5,895	9,878,477
Foreign Securities								
Includes Foreign Stocks.								
New York	309	341,382	57	11,303	221	52,955	587	405,640
American	64	30,188	0	0	4	511	68	30,699
Boston	10	388	0	0	0	0	10	388
Pacific	1	18	0	0	0	0	1	18
Philadelphia	0	0	0	0	0	0	0	0
Total	384	371,977	57	11,303	225	53,466	666	436,745

1/ Excludes securities that were suspended from trading at the end of the year and securities that, because of inactivity, had no available quotes

Table 23
VALUE OF STOCKS LISTED ON EXCHANGES
(\$ in Billions)

As of Dec 31	New York Stock Exchange	American Stock Exchange	Exclusively On Other Exchanges	Total
1938	\$ 47.5	\$ 10.8	\$	\$ 58.3
1940	46.5	10.1		56.6
1941	41.9	8.6		50.5
1942	35.8	7.4		43.2
1943	47.6	9.9	..	57.5
1944	55.5	11.2		66.7
1945	73.8	14.4		88.2
1946	68.6	13.2		81.8
1947	68.3	12.1		80.4
1948	67.0	11.9	3.0	81.9
1949	76.3	12.2	3.1	91.6
1950	93.8	13.9	3.3	111.0
1951	109.5	16.5	3.2	129.2
1952	120.5	16.9	3.1	140.5
1953	117.3	15.3	2.8	135.4
1954	169.1	22.1	3.6	194.8
1955	207.7	27.1	4.0	238.8
1956	219.2	31.0	3.8	254.0
1957	195.6	25.5	3.1	224.2
1958	276.7	31.7	4.3	312.7
1959	307.7	25.4	4.2	337.3
1960	307.0	24.2	4.1	335.3
1961	387.8	33.0	5.3	426.1
1962	345.8	24.4	4.0	374.2
1963	411.3	26.1	4.3	441.7
1964	474.3	28.2	4.3	506.8
1965	537.5	30.9	4.7	573.1
1966	482.5	27.9	4.0	514.4
1967	605.8	43.0	3.9	652.7
1968	692.3	61.2	6.0	759.5
1969	629.5	47.7	5.4	682.6
1970	636.4	39.5	4.8	680.7
1971	741.8	49.1	4.7	795.6
1972	871.5	55.6	5.6	932.7
1973	721.0	38.7	4.1	763.8
1974	511.1	23.3	2.9	537.3
1975	685.1	29.3	4.3	718.7
1976	858.3	36.0	4.2	898.5
1977	776.7	37.6	4.2	818.5
1978	822.7	39.2	2.9	864.8
1979	960.6	57.8	3.9	1,022.3
1980	1,242.8	103.5	2.9	1,349.2
1981	1,143.8	89.4	5.0	1,238.2
1982	1,305.4	77.6	6.8	1,389.7
1983	1,522.2	80.1	6.6	1,608.8
1984	1,529.5	52.0	5.8	1,587.3
1985	1,882.7	63.2	5.9	1,951.8
1986	2,128.5	70.3	6.5	2,205.3
1987	2,132.2	67.0	5.9	2,205.1
1988	2,366.1	84.1	4.9	2,455.1
1989	2,903.5	100.9	4.6	3,009.0
1990	2,692.1	69.9	3.9	2,765.9
1991	3,547.5	90.3	4.3	3,642.1
1992	3,877.9	86.4	5.9	3,970.2
1993	4,314.9	98.1	7.2	4,420.2
1994	4,240.8	86.5	4.7	4,332.0
1995	5,755.5	113.3	6.8	5,875.6
1996	6,947.7	106.2	5.7	7,059.6

Table 24
 APPROPRIATED FUNDS vs FEES* COLLECTED



* Excludes disgorgements from fraud actions.

Table 25
BUDGET ESTIMATES AND APPROPRIATIONS

Action	Fiscal 1991		Fiscal 1992		Fiscal 1993		Fiscal 1994		Fiscal 1995		Fiscal 1996		Fiscal 1997	
	Positions	\$000	Positions	\$000	Positions	\$000	Positions	\$000	Positions	\$000	Positions	\$000	Positions	\$000
Estimate Submitted to the Office of Management and Budget	2,952	\$219,516	3,027	\$249,082	3,083	\$260,852	2,940	\$274,803	3,039	\$297,376	3,353	\$350,766	3,039	\$317,294
Action by the Office of Management and Budget	- 354	-27,131	-109	-23,290	-143	-11,091	-165	-19,447	+ 133	+ 8,624	-87	-7,844	.	-9,105
Amount Allowed by the Office of Management and Budget	2,598	192,385	2,918	225,792	2,940	249,761	2,775	255,356	3,172	306,000	3,296	342,922	3,039	\$308,189
Action by the House of Representatives	..	.. 1/	.	- 68,307	.	-92,276	..	-197,500 4/	-133	-9,126	-257	-45,517	.	-11,168
Subtotal			2,918	157,485	2,940	157,485		57,856	3,039	296,874	3,039	297,405	3,039	297,021
Action by the Senate				+68,307		+92,276		+197,500	+133	+7,708	..	..	..	+9,379
Subtotal	2,598	192,385	2,918	225,792	2,940	249,761	2,775	255,356	3,172	304,582	3,039	297,405	3,039	306,400
Action by Conferees		-4,900				+3,474		+4,961	-133	-7,177				-1,000
Annual Appropriation	2,598	187,485 2/	2,918	225,792	2,940	253,235 3/	2,775	260,317	3,039	297,405	3,039	297,405	3,039	305,400
Supplemental Appropriation		1,600												
Sequestration / Other		-2												
Use of prior year unobligated Balances							+50	+8,833		-568		-384		5,700
Total Funding Level	2,598	189,083	2,918	225,792	2,940	253,235 3/	2,825	269,150	3,039	\$300,437	3,039	300,921	3,039	311,100

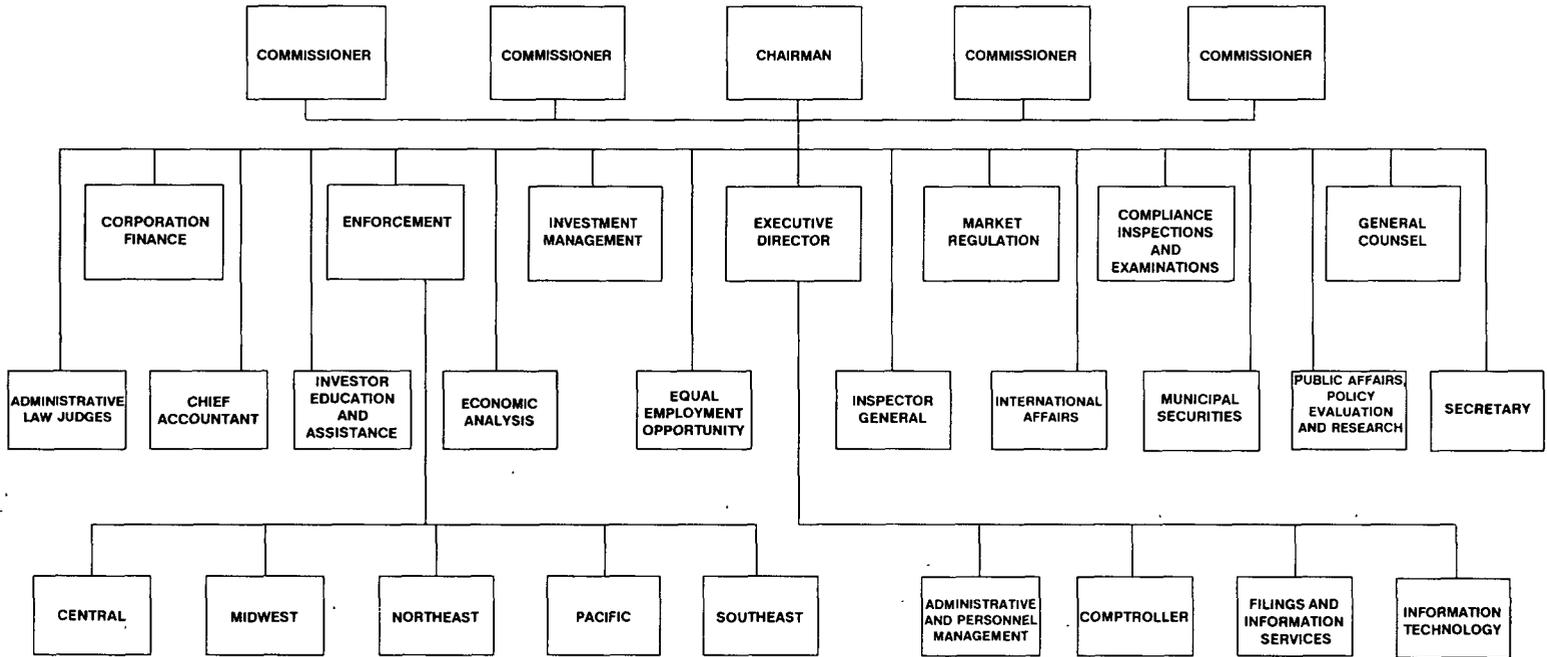
1/ Funds excluded from bill due to an absence of an enacted authorization

2/ Includes assumption of \$30 million in 1933 Securities Act 6(b) offset fees collected by the Securities and Exchange Commission

3/ Pending the possible enactment of legislation amending the Investment Advisers Act of 1940, the SEC's 1993 appropriation included authorization to collect and spend an additional \$16 million in new fees for the direct costs of registration, inspection, and related activities. Such legislation was not passed in 1993

4/ Funding reduced to \$57,856 million based on an assumption that fee language would be later enacted in permanent legislation to provide SEC an additional \$197,500 million in offsetting collections, thereby funding the SEC in full at \$255,356 million

U.S. Securities and Exchange Commission



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