

PUBLISHED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC., WASHINGTON, D. C.

Stocks Over-the-Counter

If one should card and sort the over-the-counter stocks of domestic companies as they appear in the standard securities manuals, he would discover some interesting facts as to the size and characteristics of this great marketplace.

For example, simple addition of the stockholders of record, as they are reported, comes to over 2,000,000 for industrials, between 1 and 2 million each for utilities and banks, and another million for miscellaneous stocks including about 400,000 for insurance issues. The aggregate is of the order of 6,000,000. To this should be added something for beneficial interests, as where stock is held in one name for numerous persons. The net number of holders will then depend upon how many of them hold more than one over-the-counter stock. It is clear that the net number of holders is a substantial one.

The largest category of stocks on the stock exchanges is the industrial group, and so it appears to be in the over-the-counter markets. Industrial stocks on the stock exchanges are of the order of \$100,000,000,000 and those traded only over-the-counter come to about \$10,000,000,000. The next largest group appears to be the bank stocks, with market value of \$7 or \$8 billion, of which less than \$300,000,000 is available on stock exchanges. Then come the utility stocks, whose over-the-counter values of about \$4.5 billion compare with about \$18.0 billion on the New York Stock Exchange. Next, the insurance stocks, whose over-the-counter values approach \$4.0 billion, as against \$400,000,000 listed and a somewhat similar amount traded unlisted on the stock exchanges. Finally, there are several smaller categories: finance company, real estate, bank holding company stocks, etc. Investment companies and trusts are not included in this survey, since adequate data are already available as to this group.

Over-the-counter stocks with market value of over \$10,000,000 each include at least 200 industrial issues, over 100 bank stocks, close to 100 utilities, about 70 insurance stocks, and enough miscellaneous issues to bring the total to about 500. Some 34 of these stocks have market value in excess of \$100,000,000 per issue,

QUESTION BOX

Q. Where do the SEC and NASD differ, if they do, when it comes to actions against brokers and dealers?

A. In general it can be said that the SEC is concerned with things that are fraudulent or illegal under the Securities Acts. The NASD, on the other hand, is concerned with the promotion and enforcement of ethical standards in the securities business. Of course, a fraudulent act is also an unethical act.

Q. Is there duplication as between the two?

A. Yes. Where the conduct involves both unethical and fraudulent acts. However, in fourteen years—and 468 cases—there have not been many instances where a member disciplined by NASD for unethical conduct has subsequently, on the same set of facts, been a defendant in an SEC case. The reason for any apparent duplication is that what is unethical can also be fraudulent, illegal.

Q. Do the NASD and SEC act independently in such cases?

A. They do. When the NASD acts, it does so completely on its own. Only when its decision comes up for review does the SEC learn of an NASD case. The SEC must always build its own records on the grounds of fraud or other violation of law. In the only instance where an NASD record was introduced in an original SEC proceeding, the member-defendant, not the SEC, put the NASD record into evidence.

adding to a total of nearly \$7.0 billion.

The survey on which these data are based excludes companies with less than 300 reported holders for at least one stock issue, except where, in the occasional absence of reporting, 300 or more holders are assumed in the case of actively quoted stocks. Market values are as of the close of 1952, and are based on the number of shares shown as outstanding by the manuals and such quotations as are available in the manuals and in the National Quotation "sheets."

Over-Reaching Cause

Some business conduct cases that come before NASD bodies present problems that are separate and apart from the complaint and the decision that should be made.

A recent case is an example of one kind of problem. A firm was brought up before its District Committee for the third time. This fact was perhaps the most serious aspect of the situation. The firm's profits were consistently on the long side but often the amount of money involved was on the small side. The pattern was one, nevertheless, of persistent over-reaching even when the Business Conduct Committee eliminated the small-amount transactions.

Motivation for the pattern seemed quite clear: in a period of a year, the firm had only 195 transactions with customers! Under the circumstances, it was not surprising that a large number of the trades were made at prices not reasonably related to current market. It is not for this Association to say and it is a harsh thing to note but the volume of business the firm was able to do couldn't support the personnel and even with the over-reaching the business wasn't profitable.

It isn't incumbent on NASD Committee members, all of whom are engaged in the business themselves, to act as business consultants or to give advice unless it is solicited. But there must certainly have been a temptation for the men who heard this case to point out the source of the firm's trouble.

Insurance Dividend

The Insurance Trustees have voted a third annual dividend to members participating in the Association-sponsored group life insurance policy. This year's dividend, payable to participating members as of April 30, 1953, amounts to 18 per cent. In 1952, a dividend of 16 per cent was disbursed and in 1951 the payment amounted to 16.9 per cent.

At present 785 members are participating in this coverage with a total of 5,635 personnel.

The 1953 dividend payment is equivalent to over two months' premiums for all participating firms.

Wharton School Study

A considerable volume of intelligence on the over-the-counter market is accumulating out of research that has been going on for several years now at the Wharton School, University of Pennsylvania. The Merrill Foundation has been providing the wherewithal.

Scheduled for Fall release is the fourth in a series of Monographs prepared by a specially-chosen staff under the direction of Dr. Wright Hoffman.

The forthcoming study promises to be one of the most interesting and perhaps the most rewarding of those issued to date insofar as professional people are concerned.

The title is: "The Characteristics of Transactions on Over-the-Counter Markets." The Board of Governors of NASD, which has provided much help to the research group out of Association files and experiences, has seen a preliminary summary of the projected release and believes that it will arouse considerable interest among people in the business.

As described by W. Yost Fulton, Cleveland, Chairman of the Association's Research Committee, the new study will examine "characteristics, customer preferences, geographical trends and various other matters relating to action in the over-the-counter markets."

In a report to the Board of Governors, Fulton went on to say:

"Two other monographs in the series are under preparation. One relates to the pricing and profit margins on over-the-counter markets. General topics include: the mechanics of pricing; comparison of quoted prices in dealer and customer markets; comparison of quotations with transactions; total customer costs; and, finally, cost comparisons with exchange markets.

"Another will attempt to determine the relationship between Exchange markets and over-the-counter markets. The outline includes: a comparison of the markets for large institutional investors versus small individual investors; the relation of various exchanges to the over-the-counter market; the matter of information; over-lapping administration and regulation; capital needs, etc., etc."

In mind also is a study which will deal with the whole field of regulation. A final consolidated work will review the seven individual studies.

Many dealers will echo Fulton's observation that: "We await them with considerable interest."

GOVERNOR



Walter I. Cole

The gentleman from Kansas on the NASD Board is Walter Cole. His grass roots connection is demonstrated in the common-sensical view he brings to bear on questions coming before the Board. Walter is frugal with his opinions until the time comes to separate the wheat from the chaff. A Kansan *ought* to be pretty good at that. He's Chairman of the Legislative Committee which will represent the interests of the membership on, among other things, proposals looking toward amendments of the Securities Acts. Walter's firm is Beecroft, Cole & Company and its base of operations is Topeka.

Wily Pat

Frank Hunter of Pittsburgh, Chairman of the District Committee in Pennsylvania, contemplating the fact that securities dealers have to think about NASD, SEC, State regulatory bodies, the stock exchanges, to say nothing of the customer, was reminded of the story of Patrick O'Toole.

Pat was on his death-bed. The priest had arrived and would give him the last rites of the church.

"Pat," he said, "are you sorry for all the sins you have committed during your life?"

"That I am, Father," replied Pat.

"Pat," the priest went on, "do you renounce the devil?"

There was no answer. "Pat," the padre repeated, "do you renounce the devil?" Still no answer.

"Pat," urged the priest, "do you renounce the devil and all his works?"

"Father," said Pat, "I am in no position to antagonize anyone."

Rhubarb Department

Editor, NASD NEWS: I have read with a good deal of care the March issue . . . I am sorry to say I do not like many details in it . . . all of which strike me as being out of drawing in an Association of dignity and serve no useful purpose. Frankly, I am quite disturbed. I think that all such things tend to cheapen the Association in the minds of the most worthwhile members.

Sincerely yours,
(Name withheld)

Boston, Mass.

Ed. Note. We'd be glad to hear from others who agree or disagree with our disturbed critic in Boston.

Editor, NASD NEWS: One of our dealer friends read to me an explanation given by one of their customers of Portland, Maine with reference to extension of credit over 7 days. (Regulation T). Explained the customer:

"I wrote a check immediately upon receipt of my statement and absentmindedly put it behind my typewriter. Several days later I moved the typewriter and found the check and was just about to put it in the mailbox when my wife told me that the river was overflowing into the lowlands where my cows were pastured. I put on my boots in a hurry and rushed to the lowlands to drive the cows to the highland, and while wading around in the water lost the check. . . ."

Very truly yours,
Howard S. Harris.

Boston, Mass.

Editor, NASD NEWS: Your "Cole Facts" story in the March issue must have dealt only with "industrials." There are certainly many over-the-counter issues with assets of more than Weyerhæuser's \$437,500,000.

Sincerely,
RPN.

New York.

Registered Reps

Seven years or so ago, NASD began registering salesmen, traders, cashiers, etc. of members. Today, these registered representatives number nearly 35,500. The turnover in the span of years mentioned is a striking statistic. Since registration began, the Executive Office has processed nearly 59,000.

NASD News

Published periodically by the Board of Governors under the supervision of the Member Relations Committee,
HARPER JOY, *Chairman*
Editor, JAMES P. CONWAY

Keeping Posted

If "you can't tell a player without a score-card" then you can't run a business without keeping the numbers straight on the books.

Association examiners find evidence of some laxity creeping into members' keeping of accounts and records. If you want to go broke by not paying attention to what's going on in your shop, that's your business and not the Association's. But in the interest of discharging his assignment, the Association examiner has to make sense out of members' accounts.

Sometimes the examiner can give a tip or two of value to the member. There's not much chance he can do that where the books are kept by an absent-minded professor with an out-of-date abacus.

It isn't just that the Association has a rule which says you've got to have and maintain accurate and current accounts and records. It's just good business for a member to do so. A well-maintained, current set of books is a sign that the boss knows what's going on. When the boss doesn't know what's going on, trouble's a-brewin'.

On the Record

Last year the Association got pretty hot about a schedule of fees the SEC proposed to assess brokers and dealers, viz., \$50 annual registration fee, a \$10 head tax on personnel. Members saw to it that their Congressmen found out how they individually felt about these propositions.

Last April there was a hearing before the subcommittee of the House which in 1952 had suggested the idea of government agencies collecting for services rendered. At that hearing Congressman Cotton, who had sat in on the original proposition, had this to say for the record:

"... it was the idea of the Independent Offices Subcommittee . . . that private individuals and corporations who, in dealing with all government agencies, were receiving something of actual value, or who were requiring specific services . . . should pay a reasonable sum toward it so it would not come all on the general tax-paying public to render these services.

"... it is not the desire of this subcommittee that you [the SEC] should in this coming year at any time attempt to levy fees in any such scale and proportion . . ."

Dealer Relations

Does your office follow a practice of air-mailing confirmations to dealers in distant

GOVERNOR



Allen C. DuBois

"Pete" DuBois is a partner of Wertheim & Co., and a veteran of 27 years in the securities business. Born in Clayton, New Jersey, he is residing now in Plainfield. "Pete" got his start in investment banking back in 1926 with Harris Forbes & Co. He moved on to Stone, Webster & Blodget in 1933, joined his present firm in 1938 after a year with Edward B. Smith & Co. He became a Wertheim partner in 1946. He had three years on the District Committee in New York before moving up to the Board of Governors. He is serving on the National Business Conduct Committee.

cities? If not, you can improve your dealer relationships by substituting air-mail for regular mail handling. Instances have been cited where a member in Texas, for example, wouldn't receive a confirmation from an eastern house for four or five days. If an error crept into the transaction that's a lot of time lost in straightening things out. Regular mail may be all right for routine correspondence but when it comes to business items it could be worth a few more pennies to insure their prompt closing by use of air-mail.

B O Boom

The average today is a little under one branch office for every other member. That's how fast branch offices have been opening in recent years. With 3,000 members, there are 1,442 branch offices registered with the Association. An unknown number of other offices which do not come within the meaning of "branch office" don't get registered so there are more than that number in operation. Back in 1945, NASD members had 680 such offices registered.

Windfall Headache

To open an envelope and find an unannounced dividend check resting therein should be one of life's pleasanter experiences.

But such experiences have been responsible for many graying heads in the trading departments. For "unannounced" dividends, welcome as they are to all stockholders, can gum up the works for dealers with transfers in process and, on occasions, have tested otherwise solid business friendships.

There seems to be no cure for this problem except constant education of directorates on the wisdom of making dividend payments in an orderly manner — with a payable date and a record date reasonably related to the date of voting action.

Under the Uniform Practice Rules of the Association, of course, the ex-dividend date is the first full business day after payment is made — where notice has not been forthcoming in advance.

Members who have problem children among companies in their area and who think a word or two from the Executive Office of the NASD might be helpful on this dividend problem should advise the Executive Office and obtain its cooperation.

Membership

A new high in membership was established in May. At the close of that month, membership totaled 3,025, a gain of 35 since the end of 1952 and a gain over May, 1952 of 88.

Growth in membership is not viewed by District Committees and the Board of Governors as an unmixed blessing. It is suspected that some people have joined the Association for what they could get out of it and without the right kind of understanding of what is expected of them as members.

As is often pointed out, a guy can hang out a securities business shingle for what it costs him to have the thing made. If he aspired to be a barber, he'd have to go to school and pass a test before he could get a State license to bend people's ears.

NASD hasn't the authority in the normal case, to pass on the merits of a membership application. But District Committees are deciding that interviews with new applicants are in order. These afford the Committees an opportunity to explain Association objectives and point out the obligations assumed by one joining the organization. Early examinations are also being projected by Committees to ascertain that the new member gets off on the right foot as far as his practices are concerned and as to his books and records and other details of operation.

GOVERNOR



George F. Noyes

George Noyes is vice president of The Illinois Company and a partner of Loomis, Petersen, Noyes and Hemenway. He's been in the securities business in Chicago since 1926 when he left the advertising business to become a bond salesman of the Illinois Merchants Trust Company which later became the Continental Illinois Company. He and three associates formed the present organization in 1933 when banks discontinued securities affiliates. The partnership was formed in 1951 when a New York Stock Exchange membership was purchased. A former Governor of the IBA and of the Chicago Stock Exchange, George is now serving as a Governor and Chairman of the Executive Committee of the Midwest Exchange. He's on NASD's National Business Conduct Committee.

"Rights" Relief

After hearing representations made by the Association on the subject and a careful inquiry by its own staff, the Securities and Exchange Commission recently amended one of its rules so as to give dealers relief from onerous bookkeeping chores in connection with "rights" transactions.

SEC Commissioner Adams took an active interest in the subject and was instrumental in advancing recommendations for the rule-change. The effect of the change is to make it unnecessary to observe the bookkeeping rules in connection with a cash transaction in "rights" or warrants which expire within 90 days after issuance and where the transaction involves \$100 or less.

A copy of the customer confirmation would suffice as a record, for all practical purposes, under the amended rule.

"Behind the Scenes"

One of the "behind-the-scenes" activities which consumes a vast amount of time of NASD's develops out of "disabilities" that individuals incur as a result of an SEC or NASD order involving a firm with which they were connected.

If an action of expulsion, suspension or revocation of registration is taken against a firm, the individuals responsible for alleged violations of the rules are named as "causes" of the order and as such must pass muster to gain reemployment if the member is suspended or revoked.

A dozen such "cause" cases are pending before District Committees or the Board of Governors at present. At any given time in recent months, Committees of the Association could be found holding hearings and discussing disposition to be made of matters of this kind. The record shows that many individuals who were the "cause" of actions against firms have been prevented from re-entering the securities business. In others, employment by another member has been authorized under certain well-defined restrictions.

Maybe the leopard never changes his spots; maybe mistakes and miscues were human errors and a permanent blight on a career would be justice in reverse. Those are the issues which have to be resolved by the men from the business who study the facts, hear the evidence, make their judgments.

The whole point being that the good of the business is being fostered by such "behind-the-scenes" efforts.

Rule Change

It becomes necessary, from time to time, for the Board of Governors to take a good look at the adequacy and applicability of the Rules of Fair Practice. These must be flexible enough to meet even unforeseen problems or they must be amended to meet new conditions.

Recently the Board decided it was necessary to broaden the application of one of the Rules — Section 27 (a) having to do with supervision of salesmen. When originally drafted, the desirability of broadening the coverage of the Rule was not apparent.

Experience in recent years demonstrated the wisdom of such broadening so the Board has adopted and members will soon vote upon the following amendment of Section 27 (a):

"A member who employs any registered representative shall supervise all his transactions and all correspondence relat-

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Roy W. Doolittle

Roy Doolittle is a native of Buffalo and has been engaged in the securities business there since 1919. His present firm, Doolittle & Co., is the outgrowth of the one he joined in August of that year. He spent three years on the District Committee for New York, New Jersey and Connecticut before being elected to the Board. He's done his stint in civic and charitable projects of his city and continues to take an active interest in problems of orphan children. In addition to his job as Governor, he's Chairman of the Investment Companies Dealers Committee.

ing thereto. All transactions made by a registered representative with or for a customer shall be approved by a partner, a duly accredited executive or branch office manager of such member. Approval shall be evidenced by written endorsement made upon a copy of the original memorandum or other record of such transaction, and each memorandum or other record, so endorsed, shall be made a part of the permanent records of such member."

In bringing all "registered representatives" and not just salesmen within the province of the Rule and including all transactions, the only change in the above from the present provision is that it buttons things down a little more firmly.

Executive "REP"

An officer, partner or other person with "authority" must be named by each member to act for the member on NASD matters. Who is your "Executive Representative?" Is he still the proper one to act for you?