

NOTICE TO MEMBERS: 80-1
Notices to Members should be
retained for future use.

NASD

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

January 10, 1980

IMPORTANT NOTICE MISSING SECURITIES

TO: All NASD Members and Municipal Securities Bank Dealers

Recently, the U.S. Trust Company of New York, 45 Wall Street, New York, New York, 10005, reported to the Association that the following securities were missing:

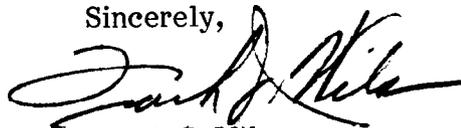
The Municipal Assistance Corporation for the City of New York, 7-1/2% 1977, Series HH, due February 1, 1995.

| <u>Certificate No.</u> | <u>Denomination</u> | <u>Issue Date</u> |
|------------------------|---------------------|-------------------|
| HHC-9682/83 | \$100,000 | 8/1/77 |
| HHC-9920/29 | \$100,000 | 8/1/77 |

Each of the foregoing certificates is in bearer form with coupons attached. Certificate #'s HHC-9680/81 and 9684/89 recently have been recovered by the Federal Bureau of Investigation. If anyone comes into possession of any of the above cited certificates or receives information in regard to this matter, kindly call collect Mr. Norbert Redegeld, Senior Vice President, United States Trust Company of New York, at (212) 425-4500 (extension 1404).

Please distribute this Notice to appropriate staff personnel in your organization. This Notice may be duplicated in quantities to satisfy your needs.

Sincerely,



Frank J. Wilson
Senior Vice President
Regulatory Policy and
General Counsel

NASD

NOTICE TO MEMBERS: 80-2
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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 11, 1980

IMPORTANT NOTICE and Survey Questionnaire

TO: Members and Other Interested Persons

ATTENTION: Chief Executive Officers, Managing Partners, OTC
Traders and Registered Options Principals

NASDAQ OPTIONS SURVEY

In anticipation of the termination of the moratorium on options expansion, initially imposed by the Securities and Exchange Commission in October, 1977, the Association's Board of Governors directed its Options Committee to review the Association's plan to permit the display of bids and offers on the NASDAQ System for option contracts issued by the Options Clearing Corporation and written on certain qualified over-the-counter and exchange listed securities. This plan, commonly referred to as the NASDAQ options program, was filed with the SEC for approval in January, 1977, was suspended from consideration when the options moratorium was imposed and was subsequently withdrawn at the request of the Commission in July, 1978.

The Board asked the Committee, in reviewing the options proposal, to determine whether it is necessary to amend or update certain portions of the rules package in order to make it more acceptable to the Commission. In the brief period of time during which the NASDAQ program was under active review, the SEC staff expressed concern over some of the more unique aspects of the Association's options plan. Foremost among their concerns was the fact that the program lacked any requirement for members to report sale transactions in underlying OTC option stocks on a real time basis (i.e., within 90 seconds of execution). Also questioned, but to a lesser degree, were rule provisions which would permit NASD members to make markets simultaneously in both NASDAQ options and their underlying securities ("dual market making") and the Association's plans to permit multiple trading (i.e., the trading of options of the same class, exercise price and expiration date in more than one options marketplace).

To: Members and Other Interested Persons
January 11, 1979
Page Two

Imposition of the options moratorium curtailed discussion of these items at the staff levels of the Commission and the Association and they remain unresolved at this time. Further complicating matters is the fact that the Special Study of the Options Markets, published in February of this year, discusses in detail the questions of last sale reporting, dual market making and multiple trading and raises them as significant market structure issues which could serve as roadblocks to approval of the Association's options program. The Options Study did not, however, make any specific recommendations for Commission action in these areas.

In attempting to address the Commission's apparent concerns with respect to these particular aspects of the NASDAQ options proposal, the Options Committee debated whether to delete from the rule package those provisions which would permit dual market making and multiple trading. In addition, the Committee considered whether to recommend to the Board that real time reporting be initiated for sale transactions in prospective OTC options stocks. However, the Committee determined that member input should be solicited prior to making any final determination regarding these significant issues. In this connection, the Committee has prepared the attached survey form. The form contains questions designed to elicit member opinion on the type of options program they wish the Association to develop. In addition to providing information with respect to the multiple trading, dual market making and last sale aspects of the Association's options plan, the Committee believes that the survey will serve as a barometer of current member interest in displaying options quotations on the NASDAQ System. Since it has been almost three years since the options proposal was filed with the SEC, the Committee is interested in determining whether the membership still strongly favors the Association's entry into options.

The Committee encourages members to give careful consideration to each of the questions on the attached survey. For your convenience, a self-addressed envelope has been included with this notice for use in returning the completed form. The survey should be submitted as promptly as possible, but in any event no later than January 31, 1980. The Committee thanks the membership for its cooperation in this endeavor.

Sincerely,



Gordon S. Macklin
President

Attachments

NASD

Notice-to-Members: 80-3
Notices to Members should be
retained for future reference.

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

January 18, 1980

I M P O R T A N T

OFFICERS, PARTNERS, PROPRIETORS

TO: Members of the National Association of Securities
Dealers, Inc. and Other Interested Persons

RE: Request for Comments on Proposed Revisions to Schedule E to
the Association's By-Laws

COMMENT PERIOD CLOSES ON: March 18, 1980

The National Association of Securities Dealers, Inc. (the "Association") is publishing for comment proposed amendments to Schedule E to the Association's By-Laws. Schedule E relates to member activities in underwriting their own securities or those of affiliates. Comments are invited from all members and other interested persons. The text of Schedule E, showing the proposed changes, is attached to this notice. A section-by-section analysis of the proposed changes appears below.

Background

Schedule E to the Association's By-Laws was adopted in the 1970's to regulate underwriting by Association members of their own securities and securities of affiliates. Since that time, various amendments have been made to Schedule E, but no overall revision of the rule has been made.

Schedule E was adopted at a time when the public distribution of members' securities was a new phenomenon. There was some uncertainty at that time as to the potential effect of this new development on the performance of securities markets, means used to distribute securities, the pricing of securities, and, in general, the potential harm to public investors which could result from abuse of the self-underwriting process. Schedule E contains various restrictions intended to eliminate certain conflicts of interest, require firms to meet minimum standards of profitability and experience, restrict the ability of "insiders" to quickly liquidate their holdings, specify the maximum size and time period of offerings and the period within which subsequent offerings may be made, and require financial statements in addition to those normally used for public offerings.

The Association has recently completed a review of all of the provisions of Schedule E and has concluded that many of the regulatory concerns reflected in Schedule E are no longer as relevant as they were and that changes are therefore in order. The Association has also noted the growing need to assure a stable capital base for member firms and to facilitate their capital raising. The changes being proposed to Schedule E are intended to be responsive to changed conditions in the securities industry, securities markets and the regulatory environment generally.

Comment Procedure

The Association's Board of Governors is given the authority to adopt changes to Schedule E (without a vote of the membership) by Article IV, Section 2(c) of the Association's By-Laws. The Board contemplates adopting the proposed revisions pursuant to that authority.

The Association is requesting comments on the proposed revisions prior to final Board consideration. All comments received during this comment period will be reviewed by the Association's Committee on Corporate Financing and changes to the proposed revisions will be recommended as deemed appropriate. The Board of Governors will then consider the proposed revisions again. If the Board approves the revisions, they must be approved by the Securities and Exchange Commission before becoming effective.

All written comments should be addressed to the following:

David P. Parina
Secretary
National Association of Securities
Dealers, Inc.
1735 K Street, N. W.
Washington, D. C. 20006

All comments must be received by March 18, 1980. All comments received will be made available for public inspection.

Any questions regarding this notice may be directed to Dennis C. Hensley, Vice President, Corporate Financing, at telephone number (202) 833-7240.

Very truly yours,



Frank J. Wilson
Senior Vice President
Regulatory Policy and
General Counsel

Section by Section Explanation of
Proposed Revisions to Schedule E of the
Association's By-Laws

Section 1 - Definitions

Subsection 1(a) - Definition of "Affiliate"

This subsection defines those entities which are deemed to be affiliated with a member, thereby requiring issues of their securities to satisfy Schedule E. The language of this subsection would be completely revised in an attempt to clarify its terms. In general, the revised definition bases affiliation on control and control is presumed to result from ten percent or greater ownership or, in some cases, active participation in management. Differences in the treatment of partnerships and corporations would be removed.

Exclusions from the definition, and therefore the applicability of Schedule E, are continued for registered investment companies and "separate accounts" as defined in the Investment Company Act of 1940. The exclusions reflect the belief that the potential abuses which Schedule E is designed to correct are less prevalent in these areas.

Direct participation programs and real estate investment trusts issuing securities other than debt or securities in exchange for other securities would also be excluded from the definition. An exclusion for direct participation programs was initially adopted, and is continued in the proposed revision, in contemplation of the promulgation of proposed Article III, Section 35 of the Association's Rules of Fair Practice and proposed Appendix F thereunder relating to the distribution and sponsorship of those programs. The proposed revisions would narrow the exclusion for direct participation programs and real estate investment trusts so as to define such issuers as affiliates when issuing debt securities or securities in exchange for other securities. The Association has concluded that those types of offerings are more likely to present regulatory concerns, particularly conflicts of interest in pricing securities, than other offerings by the specified issuers.

Proposed subsection 1(a)(2) would incorporate a new concept of aggregation of ownership interests to determine control and, therefore, affiliation. Under the proposal, if aggregate holdings by members participating in a distribution equal ten percent or more of the issuer's outstanding voting securities, any such member or person associated with such member which holds five percent or more of outstanding voting securities shall be presumed to be an affiliate. A more limited concept of aggregation presently appears in Section 4(b) of Schedule E.

Subsection 1(b) - Definition of "Bona Fide Independent Market"

This definition sets forth criteria which were intended to describe a market of such depth and duration as to constitute an efficient pricing mechanism. The only changes proposed are of a clarifying nature.

Subsection 1(c) - Definition of "Bona Fide Independent Market Maker"

The sole purpose for this definition is to elaborate upon the concept of an independent market. The term "bona fide independent market maker" is used only in defining the term "bona fide independent market."

The only change proposed to this subsection is a deletion of one of the specified criteria. The Association concluded that the concept of "a reasonable average rate of inventory turnover" lacks specificity and is unnecessary in view of the other applicable criteria.

Subsection 1(d) - Definition of "Direct Participation Program"

This subsection presently defines the term "direct participation program" to parallel the definition contained in the Association's proposed rules on such programs.

The proposed revision would incorporate by reference the definition in Article III, Section 35 of the Rules of Fair Practice. It should be noted that this proposed change contemplates approval by Securities and Exchange Commission (the "Commission") of Section 35 prior to such approval of these revisions to Schedule E.

Subsections 1(e) through 1(k) - Definitions of "Effective Date," "Financial Statements," "Immediate Family," "Member," "Parent," "Person," and "Public Director"

These subsections define the terms indicated. The only proposed revisions to these subsections are clarifying language changes.

Subsection 1(l) - Definition of "Public Offering"

This subsection defines "public offering" and, therefore, the type of securities distributions to which Schedule E applies. The definition was intended to assure broad application of Schedule E. No substantive change is proposed for this subsection.

Subsection 1(m) - Definition of "Qualified Independent Underwriter"

This subsection defines "qualified independent underwriter" in terms of past activity and profitability in the securities business and experience of management. The definition was intended to establish criteria which would assure that any functions performed pursuant to Schedule E would be performed by persons possessing certain minimum levels of experience and expertise. The test of profitability in paragraph (2) is restricted to operations of a broker/dealer so as to preclude reliance upon non-securities income and the requirement for profitability in three of the last five years was intended to reflect the cyclical nature of the securities industry. The requirement for five years' experience by the firm and a majority of its management personnel is intended as a measure of experience and expertise.

The proposed amendment to paragraph (2) would codify existing practice that the pro forma combined operations of predecessor broker/dealer entities will be utilized in determining compliance with the profitability test in those instances of merger or acquisition. Other minor language changes are intended only to clarify existing requirements.

Subsection 1(n) - Definition of "Registration Statement"

This subsection defines the specified term by reference to the Securities Act of 1933 (the "1933 Act") and enumerated documents.

The proposal to incorporate documents required to be filed by federal or state agencies is intended to clarify that documents filed with federal banking agencies, for example, may be subject to Association review if a member participates in the distribution. The remaining changes are minor clarifications in language.

Subsection 1(o) - Definition of "Restricted Securities"

"Restricted securities" is presently defined by means of a description of types of securities.

The proposed revision of this subsection would incorporate the definition of "restricted securities" used in Rule 144 under the 1933 Act. This reflects the view that there should be greater consistency between the treatment of restricted securities of members and their affiliates under Schedule E and other businesses under the federal securities laws.

Subsection 1(p) - Definition of "Settlement"

This subsection defines "settlement" as the distribution of net proceeds. No change is proposed.

Section 2 - Offerings by a Member
of Its Own Securities

Section 2 sets forth general criteria which apply to public offerings of an issue of a member's own securities. In addition to the specific proposed changes discussed below, minor clarifying language changes are proposed throughout.

Subsection 2(a) - Financial Statements

This subsection specifies the type of financial statements which must be filed with the Association and disclosed in the offering documents for public offerings by members of their own securities. The requirements of this subsection also apply to affiliates of members pursuant to subsection 4(a)(4) of Schedule E.

The financial disclosure required by subsection 2(a) goes beyond the requirements for registration under the 1933 Act and some state disclosure requirements. For example, the requirement for audited financial statements in instances where more than six months has elapsed since the end of the last full calendar or fiscal year goes beyond the requirements under the 1933 Act.

The proposed changes to subsection 2(a) would reduce the requirements for financial statement disclosure and make Schedule E more uniform with Regulation S-X under the 1933 Act. The required period for financials is proposed to be reduced from three years to two years and the requirement for an audited balance sheet of periods in excess of six months is eliminated, both to conform to Regulation S-X. The Association has concluded that no regulatory purpose is served by requiring financial disclosure by members more extensive than that required of other issuers and that such disclosure may in some instances constitute an impediment to capital raising.

Subsections 2(b), (c) and (d) [Proposed New Subsections 2(b) and (c)]
- Restrictions on Sale of Securities by Stockholders

Subsections 2(b), (c) and (d) of Schedule E place various restrictions upon the disposition of members' securities held by specified classes of persons. Subsection 2(b)(1)a prohibits the offering of more than 25 percent of stockholders' equity in specified types of offerings. Subsection 2(b)(1)b imposes a one-year "lock-up" on securities retained by stockholders after an initial offering. Subsection 2(b)(1)c places a one-year "lock-up" on restricted securities held by persons associated with a member in other types of offerings. Subsection 2(b)(1)d prohibits any person active in the management of a member and other specified persons from selling any portion of his ownership interest in an offering unless a bona fide independent market exists for the securities and various other requirements are met. Subsection 2(b)(2) imposes a three-month "lock-up" on restricted securities held by persons associated with a member in the case of other offerings. Subsection 2(b)(3) requires that securities restricted by the other provisions bear a prescribed legend.

Subsection 2(c) prohibits a person associated with a member from offering his securities as part of an offering unless he has owned them for at least one year or they were acquired pursuant to specified conditions. Subsection 2(d) provides that relief may be given from the specific restrictions in subsections (b) and (c) in "exceptional and unusual circumstances" upon a showing to the Association.

These restrictions reflect the concern at the time Schedule E was adopted that owners of member firms would utilize the public offering mechanism to "bail out" from unstable firms, taking unfair advantage of public investors. The restrictions were imposed so as to assure a continuing interest in the member following public offerings. Where sales were permitted, reliance was placed on the safeguard of an existing bona fide independent market to assure that information on the issuer would be publicly available and prices established by the marketplace.

The proposed revision of Schedule E would eliminate virtually all of the restrictions now contained in these subsections. Only the prohibition of subsection 2(b)(1)a would be retained, requiring that no more than 25 percent of stockholders' equity be offered as part of an issue of securities for which no bona fide independent market exists. The restrictions of the remaining subsections would be replaced by new subsection 2(c) which would simply require compliance with Rule 144 under the 1933 Act.

The experience gained by the Association in administering Schedule E has led to the conclusion that these provisions may be unnecessarily restrictive and that many of the dangers for which they were initially enacted have proven not to exist. The Association is also mindful of the liberalization of Rule 144 in recent years, and is of the view that the action proposed here is consistent with the Commission's steps to facilitate the disposition of the securities held by corporate "insiders". The Association believes that no regulatory purpose is served in this instance by imposing greater restrictions upon stockholders of broker/dealers than are imposed upon the holders of interests in other types of corporations.

Subsection 2(e) - Restriction on Subsequent Offerings

Subsection 2(e) prohibits a member from making a subsequent public offering for a period of at least one year following the initial offering of its securities (except for enumerated employee-benefit programs). The purpose of this subsection was to prevent members from quickly diluting ownership interests recently distributed or from circumventing other restrictions on the size of offerings through repeated public offerings.

This restriction is deleted in the proposed amendments. The Association has concluded that this provision is unnecessarily restrictive under current market conditions, especially in view of mergers and acquisitions, and is of limited regulatory purpose.

Subsection 2(f) - Restriction on Total Dollar Amount of Offering

Subsection 2(f) limits the total dollar amount of an offering by a member to three times its net worth, excluding subordinated capital. This restriction was apparently intended to prevent broker/dealers from incorporating with a minimum capital commitment and thereafter going to the public for a substantial increase in capital.

This restriction is eliminated in the proposed amendments. The Association notes that market conditions have changed since the

provision was originally adopted and that competitive market forces may be expected to determine the relative size of an offering which can be successfully distributed.

Subsection 2(g) - Completion of Offerings Within 60 Days

Offerings of members' securities are required by subsection 2(g) to be completed within sixty days.

The limit on offering periods is eliminated in the proposed amendments, since such a time limit has proven to serve little regulatory purpose. The apparent danger against which the provision was adopted, manipulation of capital computations, has not been a serious problem.

Subsection 2(h) [Proposed New Subsection 2(d)] - Escrow of Proceeds

Subsection 2(h) requires that proceeds from sales of a member's securities be placed in an escrow account and not released until net capital has been computed. The requirement was intended to assure that an offering was completed and net capital requirements satisfied before a member could utilize the proceeds.

Only minor language clarifications are made in the proposed amendments and the subsection is redesignated 2(d).

Subsection 2(i) [Proposed New Subsection 2(e)] - Net Capital Criteria

Subsection 2(i) requires members to file a net capital computation as of settlement date with the Association upon termination of an offering and specifies minimum net capital ratios which must be satisfied.

Only minor clarifying language changes are proposed for this subsection. The subsection would be redesignated 2(e).

Subsections 2(j), (k) and (l) [Proposed New Subsections 2(f) and (g)] - Establishment of Audit Committee and Election of Public Director

Subsections 2(j) and (k) require a member (or its parent) issuing securities to establish an audit committee of its board and elect a public director, both within twelve months following the offering. Subsection 2(l) set dates when these requirements became effective. The intent in adopting these requirements was to establish an "early warning system" that would be beneficial to a member's management and board. The audit committee was structured to be semi-

autonomous and free of influence by the chief financial officer.

Subsection (j) would be virtually unchanged by the proposed revisions and subsection (k) would be altered only to eliminate reference to an exchange rule which has been changed. These subsections would be redesignated 2(f) and (g). Subsection 2(l) would be deleted since the dates have expired.

Subsection 2(m) [Proposed New Subsection 2(h)] - Periodic Reports to Investors

Members who have distributed securities to the public are required by subsection 2(m) to send periodic reports to their securityholders. This requirement is similar to that for affiliates of members under subsection 4(a)(5).

No change is proposed in this subsection other than redesignating it 2(h).

Subsection 2(n) [Proposed New Subsection 2(i)] - Filing of FOCUS Report

Subsection 2(n) requires that a member making a public distribution of its own securities file specified parts of Form X-17A-5 ("FOCUS" Report) and other specified information with the Association in certain circumstances.

No change is proposed to this subsection other than redesignating the subsection 2(i).

Subsection 2(o) [Proposed New Subsection 2(j)] - Receipt by Members of Proceeds of Affiliate's Distribution

Under subsection 2(o), if an issuer directs proceeds from a public offering to a subsidiary or affiliated member and the member then has net worth in excess of ten percent of the net worth of the issuer, the offering will be presumed to have been made by the member. Subsection 2(o) was adopted to prevent the circumvention of Schedule E. Under other provisions of Schedule E, any offering by an affiliate of a member must meet certain standards. This section specifically requires that offerings of such affiliates in which the proceeds are diverted to a member shall also comply with Sections 2 and 3 of Schedule E, which otherwise generally apply only to issues by a broker/dealer of its own securities.

No change is proposed for this subsection other than clarifying language changes and redesignation as subsection 2(j).

Subsection 2(p) [Proposed New Subsection 2(k)] - Registration Statements of Intra-State Offerings

Subsection 2(p) requires that registration statements for intra-state offerings contain information comparable to that suggested by the Commission. This subsection is proposed to be redesignated 2(k) without change.

Section 3 - Underwriting By Member of Issue of Its Own Securities

Section 3 of Schedule E specifies conditions to be met by a member seeking to underwrite or participate in the distribution of a public offering of its own securities. These conditions vary according to the type of participation by the member. In each instance, a member must satisfy the experience and financial stability criteria of subsection 3(a)(3). Generally, these require that the member has been actively engaged in the securities business for five years and has been profitable in three of the immediately preceding five years, and its management consists of persons the majority of whom have at least five years experience in the securities business.

The remaining provisions of Section 3 specify different safeguards against conflicts of interest in the pricing of securities and preparation of offering documents. These safeguards vary according to the nature of involvement of the issuing member and the type of offering. Thus, subsections 3(a)(1) and (2) permit members to participate without limitation in the distribution if the price of the security is established by two qualified independent underwriters who participate in the preparation of the registration statement, exercise usual standards of "due diligence" and are represented by independent legal counsel who renders an opinion as to conformity with securities law. Subsection 3(b) permits the issuing member to participate in the distribution in an amount up to ten percent of the offering if the offering is managed by a qualified independent underwriter and is underwritten on a "firm commitment" basis. Subsection 3(c) permits the issuing member to participate without limitation in the distribution if a bona fide independent market exists for the class of securities or the securities are rated "BAA" or better by a recognized rating service.

The proposed revisions would completely recodify Section 3 in an effort to clarify its requirements. With the exception of the elimination of the requirement for independent counsel, however, the substantive provisions would remain largely unchanged. Specific references would be inserted to clarify that Section 3 is intended to apply to both debt and equity offerings.

As proposed, subsection 3(a) would set forth experience and financial criteria to be met by a member seeking to participate in the distribution of its own securities. These criteria would parallel those presently contained in subsection 3(a)(3).

Proposed new subsection 3(b) would clarify that members seeking to participate in the distribution of their own securities would be subject to one of two types of criteria, depending upon the member's type of participation. Subsection 3(b)(1) would list three conditions under any one of which a member could fully participate in the distribution. Generally, these would require either that two independent underwriters price the securities and exercise "due diligence" or that a bona fide independent market exist for the securities, or that the securities be rated "Baa" or better by Moody's or "BBB" or better by Standard and Poor's rating services.

Proposed subsection 3(b)(2) would provide that a member may participate in an amount up to ten percent of the total dollar amount of an offering of its securities if the offering is a "firm commitment" underwriting managed by a qualified independent underwriter.

It is important to note that the option of utilizing two independent underwriters contained in proposed subsection 3(b)(1) would no longer require the participation of counsel to such underwriters. The Association's experience in administering the present requirement in Schedule E for such counsel indicates that the additional regulatory benefit derived from the participation of such counsel is marginal in view of the fact that in most instances such persons are called upon only after offering documents have been prepared by others. It has also been suggested that the requirement for participation by such independent counsel results in additional legal expenses, thereby constituting a further impediment to capital raising. The Association has concluded, therefore, that it would be in the public interest to delete this requirement.

Section 4 - Member Underwriting or Participating
In Distribution of Issues of Securities
of an Affiliate

Section 4 of Schedule E specifies those conditions to be met by a member seeking to participate in the distribution of a public offering of an affiliate's securities. The provisions of present Section 4 closely parallel those in Section 3 with certain additional requirements. The securities being offered must not be of an issuer which is a broker/dealer affiliate of a member unable itself to meet the provisions of Section 3, the issuer's financial statements must conform to the provisions of subsection 2(a) and the issuer must represent that it will provide certain periodic reports to securityholders.

As in the case of Section 3, the proposed revisions to

Schedule E would completely recodify Section 4. As revised, Section 4 would continue to parallel Section 3 with the exception that the requirement for issuer financial statements and periodic reports referred to above would be incorporated. As in the case of Section 3, the requirement for counsel to independent underwriters would be deleted.

Section 5 - Suitability

This section establishes suitability requirements for customers purchasing securities distributed pursuant to the provisions of Sections 3 or 4. No amendment is being proposed for Section 5.

Section 6 - Discretionary Accounts

Section 6 prohibits the execution of a transaction in any security distributed pursuant to Section 3 or 4 in a discretionary account without written authority of the customer. A minor amendment is proposed to clarify that this requirement applies to all members, not only the affiliate of the issuer.

Section 7 - Sales to Employees

Section 7 provides that, notwithstanding the Association's "Free-Riding and Withholding" Interpretation, a member may sell securities distributed pursuant to Section 2 or 3 to its employees and other specified classes of persons.

The proposed amendments would delete restrictions on the sale or transfer of securities acquired under this section for 12 months in some instances and 90 days in others. This proposal reflects the same concern of the Association discussed in connection with the proposed removal of similar restrictions from Section 2.

Sections 8, 9 10 and 11

Sections 8, 9, 10 and 11 of Schedule E relate to the relationship of Schedule E to other Association requirements and explain the procedures for obtaining an exemption from Schedule E. The proposed revisions to these sections consist only of minor language changes.

Proposed Amendments
To Schedule E
To the Association's By-Laws*

Schedule E

Distribution of ~~Issues of Members'~~ Securities of
Members and Affiliates

Section 1 -- Definitions

For purposes of this Schedule, the following words shall have the stated meanings:

(a) Affiliate:

(1) a company which ~~controls, is controlled by or is~~ under common control with a member, or a person associated with such a company who is actively engaged in the management of its business and who is actively engaged in the management of a member's business or in a position to exercise control;

(2) a company which directly or indirectly owns, controls or holds with power to vote 10 per centum or more of the outstanding voting securities, or holds securities which provide the right to acquire 10 per centum or more of the outstanding voting securities of a member; or

(3) a company in which a member, or a person associated with a member, directly or indirectly, owns, controls, holds with power to vote 10 per centum or more of the outstanding voting

* Deleted language is stricken; new language is underlined.

securities, or holds securities which provide the right to acquire 10 per centum or more of the outstanding voting securities of the company;

(4) a partnership wherein any partner, general or limited, or, in the case of a sole proprietorship where the individual, has an interest in 10 per centum or more of the distributable profits or losses of a member; or a partnership in which a member, or person associated with a member who is actively engaged in the management of the member's business, has an interest in 10 per centum or more of the partnership's distributable profits or losses; or

(5) a company wherein an officer, or person active in the management of the company's business, has a direct or indirect interest in 10 per centum or more of the distributable profits or losses of a member partnership;

provided, however, that the term "affiliate" shall not be deemed to include an investment company registered as such with the Securities and Exchange Commission pursuant to the provisions of the Investment Company Act of 1940, as amended; a separate account as defined in Section 2(a)(37) of the Investment Company Act of 1940, as amended; a real estate investment trust as defined in Section 856 of the Internal Revenue Code or a non-debt offering of a direct participation program.

(1) a company which controls, is controlled by or is under common control with a member.

(2) For purposes of subsection 1(a)(1) hereof,

(i) a company will be presumed to control a member if the company directly or indirectly owns, con-

trols or holds with power to vote ten percent or more of the voting securities of a member which is a corporation, or directly or indirectly owns or controls a partnership interest in ten percent or more of the distributable profits or losses of a member which is a partnership;

(ii) a member will be presumed to control a company if the member or a person associated with the member directly or indirectly owns, controls or holds with power to vote ten percent or more of the voting securities of a company which is a corporation, or directly or indirectly owns or controls a partnership interest in ten percent or more of the distributable profits or losses of a company which is a partnership;

(iii) a company will be presumed to be under common control with a member if

(1) the same natural person or company controls both the member and company by directly or indirectly owning, controlling or holding with power to vote ten percent or more of the voting securities of a member or company which is a corporation, or by directly or indirectly owning or controlling a partnership interest in ten percent or more of the distributable profits or losses of a member or company which is a partnership; or

(2) an officer or natural person actively engaged in the management of the member or company is also an officer of, or actively engaged in the

management of the other entity in question; provided, however, that all securities owned, controlled, or held with power to vote by members intending to participate in the distribution of an issue of securities and securities owned, controlled or held with power to vote by persons associated with such members will be aggregated and if the aggregate amount so determined equals ten percent or more of the voting securities or partnership interest, any member and its associated persons owning, controlling or holding five percent or more of such securities or interest will be presumed to control the member or company;

(3) the provisions of paragraphs (1) and (2) hereof notwithstanding, none of the following shall be presumed to be an affiliate of a member for purposes of this Schedule E:

(i) an investment company registered with the Securities and Exchange Commission pursuant to the Investment Company Act of 1940, as amended;

(ii) a "separate account" as defined in Section 2(a)(37) of the Investment Company Act of 1940, as amended;

(iii) a "real estate investment trust" as defined in Section 856 of the Internal Revenue Code except a real estate investment trust issuing debt securities or securities in exchange for other securities; and

(iv) a "direct participation program" as defined in Article III, Section 35 of the Rules of Fair Practice except a direct participation program issuing debt securities or securities in exchange for other securities.

(b) Bona fide independent market--a market in a class of securities of a company which:

(1) ~~are~~ is registered pursuant to the provisions of Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934, unless ~~the company, or an industry of which a company is part,~~ has specifically been exempted from ~~the registration~~ those provisions of ~~these Sections~~ by the Securities and Exchange Commission;

(2) has an aggregate trading volume for the immediately preceding 12 months of at least 100,000 shares;

(3) has outstanding for the entire twelve-month period immediately preceding the filing of the registration statement, a minimum of 250,000 publicly held shares ~~of the class of securities being offered;~~ and

(4) in the case of over-the-counter securities, has had at least three bona fide independent market makers for a period of at least 30 days immediately preceding the filing of the registration statement and the effective date of the offering.

(c) Bona fide independent market maker--a market maker which:

(1) continually maintains a net capital as determined by Rule 15c3-1 of the General Rules and Regulations under the Securities Exchange Act of 1934 of \$50,000 or \$5,000 for each security in which it makes a market, whichever is less;

(2) regularly publishes bona fide competitive bid and offer quotations in a recognized interdealer quotation system;

(3) furnishes bona fide competitive bid and offer quotations to other brokers and dealers on request; and

(4) stands ready, willing and able to effect transactions in reasonable amounts, and at his quoted prices, with other brokers and dealers, and.

(5) has a reasonable average rate of inventory turnover.

(d) Direct participation program -- a program which provides flow through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate syndications (except real estate investment trusts), agricultural programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. a direct participation program as defined in Article III, Section 35 of the Rules of Fair Practice.

(e) Effective date--the date on which an issue of securities first becomes legally eligible for distribution to the public.

(f) Financial statements--a balance sheet, a profit and loss statement or statement of income and expense, a statement of source and application of funds, and a statement of retained earnings.

(g) Immediate family--~~shall include~~ parents, mother-in-law, father-in-law, husband or wife, brother or sister, brother-in-law or sister-in-law, children, or any relative to whose whom financial support such persons is contributed directly or indirectly.

(h) Member--any individual, partnership, corporation, or other legal entity admitted to membership in the Association under the provisions of Article I of the By-Laws, whose membership is currently

effective and who continues to be a member actively engaged in the investment banking or securities business.

(i) Parent--any entity affiliated with a member from which member the entity derives ~~the principal source~~ (50% percent or more) of its gross revenues or in which it employs 50% percent or more of its assets.

(j) Person--any natural person, partnership, corporation, association, or other legal entity.

(k) Public director--a person elected from the general public to the board of directors of a member or its parent ~~who~~ which has made a public distribution of an issue of its own securities. Such person shall not own or control with power to vote 5 five per centum percent or more of the outstanding voting securities of the member or its parent and in no circumstances be in any way engaged in the investment banking or securities business or be an officer or employee of the member or its parent, or a member of the immediate family of an employee occupying a managerial position with a member or its parent.

(l) Public offering--any primary or secondary distribution of securities made pursuant to a registration statement or offering circular including exchange offerings, rights offerings, offerings made pursuant to a merger or acquisition, straight debt offerings and all other securities distributions of any kind whatsoever except ~~that it shall not include~~ any offering made pursuant to an exemption under Section 4(2) of the Securities Act of 1933.

- (m) Qualified independent underwriter**-- a member which:
- (1) has been actively engaged in the investment banking or securities business for at least five years immediately preceding the filing of the registration statement;
 - (2) in at least three of the five years immediately preceding the filing of the registration statement has had net income from operations of the broker/dealer entity or from the pro forma combined operations of predecessor broker/dealer entities, exclusive of ~~the~~ extraordinary items, as computed in accordance with generally accepted accounting principles;
 - (3) as of the date of the filing of the registration statement and as of the effective date of the offering:
 - a. if a corporation, ~~has~~ a majority of its board of directors or, if a partnership, a majority of its general partners, are ~~of~~ persons who have been actively engaged in the investment banking or securities business for the five-year period immediately preceding the filing of the registration statement;
 - b. ~~if a partnership, the majority of its general partners has been actively engaged in the investment banking or securities business for the five~~

** In the opinion of the National Association of Securities Dealers and the Securities and Exchange Commission the full responsibilities and liabilities of an underwriter under the Securities Act of 1933 attach to a "qualified independent underwriter" performing the functions called for by the provisions of Sections 3 and 4 hereof.

year period immediately preceding the filing of the registration statement;

e.b. if a sole proprietorship, the proprietor has been actively engaged in the investment banking or securities business for the five-year period immediately preceding the filing of the registration statement;

(4) has actively engaged in the underwriting of public offerings of securities for at least the five-year period immediately preceding the filing of the registration statement; and

(5) is not an affiliate of the ~~issuer-member~~ member issuing securities pursuant to Section 3 hereof or the issuer issuing securities pursuant to Section 4 hereof; and

(6) has agreed in connection with the offering in respect to which he is acting as such to undertake the full legal responsibilities and liabilities of an underwriter under the Securities Act of 1933, specifically including those inherent in the provisions of Section 11 thereof.

(n) Registration statement--~~shall have the meaning given to that term~~ a registration statement as defined by Section 2(8) of the Securities Act of 1933; ~~provided, however, that such term as used herein shall also include~~ a notification on Form 1A filed with the Securities and Exchange Commission pursuant to the provisions of Rule 255 of the General Rules and Regulations under the Securities Act of 1933; and, ~~in the case of an intrastate offering,~~ any other document,

by whatever name known, initiating ~~the~~ a registration or similar process by whatever name known for an issue of securities which is required to be filed by the laws or regulations of any federal or state agency.

(o) Restricted securities--securities defined as "restricted securities" in Section (a)(3) held by any persons including any persons in a control relationship with the issuer or an affiliate of an issuer or an affiliate of an issuer subject to the provisions of Rule 144 of the General Rules and Regulations under the Securities Act of 1933, and securities in respect to which a registration statement must be filed and become effective before being sold to the public.

(p) Settlement--the distribution of the net proceeds from an offering to the issuer company and/or selling stockholders.

Section 2 - Offerings by An Issuer-Member of Its Own Securities

Any member may makeing a public offering of an issue of its own securities shall comply with the requirements of this Section and of Section 3 hereof. The following general criteria shall apply to all such offerings unless otherwise specified hereafter.

(a) Notwithstanding that the registration may be for an intrastate offering or in an amount which would otherwise qualify pursuant to the provisions of Regulation A under the Securities Act of 1933 or otherwise, Financial statements complying with the following requirements shall be prepared irrespective of the nature of the registration statement:

(1) financial statements for the immediately preceding

~~three two~~ years, or for the entire period of the issuer's existence if less than two years, must shall be filed ~~therewith~~ with the Corporation and be disclosed in the prospectus, offering circular or ~~other comparable~~ similar document;

~~(2)~~ financial statements for the entire period of its existence must be so filed and so disclosed if the issuer has not been in existence for three years;

~~(3)~~(2) the most recent financial statements must be as of a date not more than 90 days prior to the filing of the registration statement and not more than six ~~(6)~~ months prior to the effective date of the offering; and

~~(4)~~(3) the financial statements for the last calendar or fiscal year, as the case may be, or less if the member has not been in existence for one year, must contain an independently audited and certified balance sheet shall be independently audited. If there is an updated balance sheet covering a period in excess of six ~~(6)~~ months subsequent to the last full calendar or fiscal year, such must also be independently audited and certified.

(b) ~~(1)~~a. Subject to the provisions of subparagraph d. of this paragraph ~~(1)~~ and except as provided in paragraph ~~(2)~~ hereof, in In the case of an initial offering, or an offering by a member of a class of securities which as of the date of the filing of the registration statement ~~for the current offering~~, and as of the effective date thereof, does not have a bona fide active independent market, no more than 25% percent of the equity interest of the stockholders thereof as of the date of the filing of the registration statement may be offered as part of the issue;

b. In the case of an initial offering, all securities retained by stockholders of the issuer shall, except in the case of a bona fide gift or transfer by operation of law, be restricted as to sale or transfer for a period of at least one (1) year after the termination of the offering.

c. In the case of an offering by a member of a class of securities which as of the date of the filing of the registration statement for the current offering, and as of the effective date thereof, does not have a bona fide active independent market, other than an initial offering, all restricted securities which are held by persons associated with the member or any other person in a control relationship with a member, which were not part of the offering shall, except in the case of a bona fide gift or transfer by operation of law, be restricted as to sale or transfer for a period of at least one (1) year after the termination of the offering.

d. A stockholder who is actively engaged in the conduct of an issuer member's investment banking or securities business, a member of his immediate family, or an affiliate of a member, shall not be permitted to sell any portion of his ownership interest in the issuer member in any offering made pursuant to the provisions of Section 3 hereof unless a bona fide independent market exists for the securities and the provisions of Section 3(a)(1), (2) and (3) hereof are complied with.

(2) In all other offerings, including any offering of a class of securities in respect to which a bona fide active independent market exists as of the date of the filing of the registration

statement of the current offering, and as of the effective date thereof, there shall be no limitation on the percentage of stockholders' equity interest which may be distributed but all restricted securities which are held by persons associated with the member, or any person in a control relationship with a member, which were not part of the offering shall, except in the case of a bona-fide gift or transfer by operation of law, be restricted as to sale or transfer for a period of at least three (3) months after the termination of the offering,

provided, however, in the case of a bona fide gift or transfer by operation of law, the periods of restriction on sale or transfer referred to in paragraphs (1) and (2) hereof shall apply to the donee or transferee and shall be measured as to the date of the termination of the offering.

(3) All securities which, pursuant to the provisions of this subsection (b), or of Section 7 hereof, are restricted as to sale or transfer, shall bear a legend stating clearly the commencement date of the period of restriction, the expiration date thereof and that after that date no restriction as to transferability of the security exists as a result of the provisions of this Schedule E.

(e) A stockholder who is a person associated with a member, or any other person in a control relationship with a member, may not offer any of his securities as part of an offering if they have not been owned by him for a period of at least one (1) year prior to the filing of the registration statement unless:

(1) they were acquired during the referred to one (1) year period as a result of the formation of a successor corporation to a preexisting sole proprietorship or partnership in respect to which he was either the sole proprietor or a partner prior to the previous one year period, or

(2) they were acquired during the referred to one (1) year period as a result of a bona fide stock dividend, stock split, recapitalization, merger or some other like event.

(c) Any member, person associated with a member, or affiliate of a member owning restricted securities of the member shall comply with Rule 144 under the Securities Act of 1933 in the sale of such securities, notwithstanding that the terms of that rule may not otherwise require such compliance.

(d) Notwithstanding the provisions of subsections (b) and (c) hereof the sale or transfer of securities which are the subject thereof shall not be prohibited in exceptional and unusual circumstances such as, but not necessarily limited to, a sale by an estate or by a person whose financial circumstances, taking into consideration all relevant factors, requires such, provided, however, justification for such must first be demonstrated to the Corporation.

(e) After an initial offering has been made by a member to the public of an issue of its securities, no other offering to the public, primary or secondary, may be made by that member of its securities for a period of at least one year after the termination of the offering, provided, however, offerings made solely to employees during that period such as employee stock option, stock purchase or other similar type offerings, shall not be prohibited.

(f) The total dollar amount of an offering by an issuer member of its securities (exclusive of those securities attributable to selling stockholders) shall be no larger than three times the net worth (exclusive of subordinated capital) of the issuer member as reflected in the most recent balance sheet as of a date not more than 90 days prior to the filing of the registration statement and six (6) months prior to the effective date of the offering. In computing the total dollar amount of an offering of securities with warrants attached, the issuer member shall include the exercise value of such warrants or prohibit for a period of twelve (12) months the exercise thereof.

(g) All offerings must be completed within a period of 60 days after the effective date thereof.

(h)(d) All proceeds from sales of an offering by a member of its securities of an offering shall be placed in escrow and shall not be released therefrom or used by a member until settlement has been effected and its net capital ratio, computed as prescribed in the requirements of paragraph (i) (e) hereof, is 40-4, have been met.

(i)(e) Every issuer- member offering its securities pursuant to this Schedule shall immediately notify the Association Corporation when its offering has been terminated and settlement effected and it shall file with the Association Corporation a computation of its net capital computed pursuant to the provisions of Rule 15c3-1 of the General Rules and Regulations under the Securities Exchange Act of 1934 (the net capital rule) as of the settlement date. If at such time its net capital ratio as so computed is more than 40-4 10:1 or, net capital fails to equal 120 percent of the minimum dollar amount

required by Rule 15c3-1 or, in the event the provisions of 15c3-1(f) are utilized in making such computation, the net capital is less than 7 seven percent of aggregate debit items as computed in accordance with 15c3-3a, all monies received from sales of securities of the offering must be returned in full to the purchasers thereof and the offering withdrawn, unless a the member has obtained from the Securities and Exchange Commission a specific exemption from the net capital rule. Proceeds from the sales of such securities may be taken into consideration in computing net capital -ratio for purposes of this paragraph.

~~(j)~~(f) Any member or ~~its~~ parent of a member who makes a public offering of an issue of its own securities shall also be required to establish within twelve ~~(12)~~ months of the effective date of said offering an Audit Committee composed of members of the board of directors (except that it shall not include the chief accounting or chief financial officer of the member or its parent) the functions of which, among others, shall be the following:-

- (1) review the scope of the audit;
- (2) review with the independent auditors the corporate accounting practices and policies and recommend to whom reports should be submitted within the company;
- (3) review with the independent auditors their final report;
- (4) review with internal and independent auditors overall accounting and financial controls; and
- (5) be available to the independent auditors during the year for consultation purposes.

~~(k)~~(g) Any member or ~~its~~ parent of a member who makes a public offering of an issue of its own securities shall cause to be elected to its board of directors within twelve ~~(12)~~ months of the effective date of said offering a public director who shall serve as a member of the Audit Committee, except where such election is inconsistent with the rules of a national securities exchange.

~~(i)~~ Any member who made a public offering of an issue of its own securities prior to April 1, 1974 was required by April 1, 1975 to have established and maintain an audit committee to be charged with the functions set forth in Subsection ~~(j)~~ hereof and have caused to be elected to its board a public director except where such election is inconsistent with the rules of a national securities exchange. In the case of any member's parent who has made a public offering of an issue of its own securities prior to May 19, 1977, such shall be required by May 19, 1978.

~~(m)~~(h) Any member who has heretofore made, or hereafter makes, a distribution to the public of an issue of its securities, shall send to each of its shareholders or, in the case of debt offerings, to each of its investors:

- (1) quarterly, a summary statement of its operations;
and
- (2) annually, independently audited and certified financial statements.

~~(n)~~(i) After a member for whom the Corporation is the designated examining authority under Rule 17A-5(a)(4) has made distribution to the public of an issue of its securities, it shall file with the Corporation Part II or II A of the SEC Form X-17A-5 as required by the

Board of Governors. If the offering is subject to the provisions of Rule 463 of the General Rules and Regulations under the Securities Act of 1933, copies of Form SR required by that rule to be filed with the Securities and Exchange Commission shall also simultaneously be filed with the Corporation.

~~(e)~~(j) If an issuer intends to or does direct all or part of the proceeds from a public offering of its securities to a subsidiary or affiliated ~~broker/dealer~~-member which results in the member having a net worth in excess of ~~10%~~ ten percent of the net worth of the issuer, the offering shall be deemed presumed to be a distribution by a member subject to the provisions of Sections 2 and 3 of this Schedule E.

~~(p)~~(k) In the case of an intrastate offering, the registration statement must contain information at least comparable to that suggested by the Securities and Exchange Commission in Securities Act Release No. 5222 (January 3, 1972) entitled "Public Offerings of Registered Broker/Dealers."

Section 3 - Underwriting by ~~Issuer~~-Member Of
Issue of Its Own Securities

(a) Any member may underwrite, participate as a member of the underwriting syndicate or selling group, or assist in the distribution of a public offering of an issue of its own securities only if:

(1) the price at which the issue is to be distributed to the public is established by the issuer-member at a price no higher than that recommended by two qualified independent

underwriters who shall also participate in the preparation of the registration statement and the prospectus, offering circular, or other comparable document, and each of whom shall exercise the usual standards of due diligence in respect thereto;

(2) the referred to two qualified independent underwriters are represented by legal counsel independent of the issuer-member who shall review the information contained in the registration statement and the prospectus, offering circular, or other comparable document, and issue an opinion as to whether they conform to all requirements of the federal securities laws and, in case of an intrastate offering, whether they conform to all of the requirements of the state with jurisdiction;

(3) the following criteria relating to experience and financial stability are met:

a. the member (or its predecessor member if the corporate member is a newly formed corporation) has been actively engaged in the investment banking or securities business for at least five years immediately preceding the filing of the registration statement;

b. the member in at least three of the five years immediately preceding the filing of the registration statement has had a profit from its operation;

c. the majority of the board of directors holding office as of the date of the filing of the registration statement and as of the effective date of the offering has been actively engaged in the investment banking or securities business for the five-year period

immediately preceding the filing of the registration statement.

(b) Notwithstanding the provisions of subsections (a)(1) and (2) hereof, a member may participate as a member of the underwriting or selling group in the distribution of an issue of its own securities which is the subject of a firm commitment underwriting managed by an underwriter who is a qualified independent underwriter in an amount not exceeding 10% of the total dollar amount thereof, provided the requirements of subsection (a)(3) hereof have been fully satisfied in all respects.

(c) Notwithstanding the provisions of subsections (a)(1) and (2) and subsection (b) hereof, any member who satisfies in all respects the provisions of subsection (a)(3) may underwrite or participate in the distribution of an issue of its own securities without the pricing recommendations of two qualified independent underwriters if the offering is of a class of securities for which a bona fide independent market exists as of the date of the filing of the registration statement for the current offering, and as of the effective date thereof, or if the offering is of a class of securities which are rated BAA or better by a recognized rating service.

(a) Any member which underwrites, participates as a member of the underwriting syndicate or selling group, or assists in the distribution of a public offering of an issue of its debt or equity securities shall meet the following criteria:

(1) the member or a predecessor member shall have been actively engaged in the investment banking or securities business for at least five years immediately preceding the filing of the

registration statement;

(2) the member or predecessor member or members in at least three of the five years immediately preceding the filing of the registration statement shall have had a profit from its operations or the pro forma combined operations of predecessor members;

(3) in the case of a member which is a corporation, the majority of the board of directors holding office as of the date of the filing of the registration statement and as of the effective date of the offering, or in the case of a member which is a partnership, a majority of its general partners as of the date of the filing of the registration statement and as of the effective date of the offering or, in the case of a member which is a sole proprietorship, the proprietor, shall have been actively engaged in the investment banking or securities business for the five year period immediately preceding the filing of the registration statement.

(b) In addition to the requirements of subsection 3(a) above, any member subject to this Section 3 shall comply with either subsection 3(b)(1) or 3(b)(2) below, depending on the nature of the member's participation in the distribution.

(1) A member may underwrite, participate as a member of the underwriting syndicate or selling group, or assist in the distribution of a public offering of an issue of its debt or equity securities without limitation as to the amount of securities to be distributed by the member provided that one or more of the following three criteria are met:

(i) the price at which an equity issue or the yield at which a debt issue is to be distributed to the public is established by the issuer at a price no higher or yield no lower than that recommended by two qualified independent underwriters who shall also participate in the preparation of the registration statement and the prospectus, offering circular, or similar document and each of whom shall exercise the usual standards of "due diligence" in respect thereto; or

(ii) the offering is of a class of securities for which a bona fide independent market exists as of the date of the filing of the registration statement and as of the effective date thereof; or

(iii) the offering is of a class of securities rated Baa or better by Moody's or BBB or better by Standard & Poor's rating services.

(2) A member may participate as a member of the underwriting or selling group in the distribution of an issue of its debt or equity securities in an amount not exceeding ten percent of the total dollar amount of the offering provided that the offering is the subject of a firm commitment underwriting managed by a qualified independent underwriter.

Section 4 -- Member Underwriting Or Participating
In The Distribution Of Issue Of
Securities Of An Affiliate

(a) Any member may underwrite, participate as a member of the underwriting syndicate or selling group, or assist in the distribution of a public offering of an issue of securities of an affiliate only if:

(1) the offering price is established pursuant to the provisions of Section 3(a)(1) and the provisions of Section 3(a)(2) are complied with;

(2) the member underwriter complies in all respects with the provisions of Section 3(a)(3) except that in lieu of paragraph e, thereof:

a. if the member underwriter is a partnership, a majority of its general partners as of the date of the filing of the registration statement and as of the effective date of the offering shall have been actively engaged in the investment banking or securities business for the five year period immediately preceding the filing of the registration statement; or

b. if the member underwriter is a sole proprietorship, the proprietor shall have been actively engaged in the investment banking or securities business for the five year period immediately preceding the filing of the registration statement.

(3) the securities being offering are not of an issuer

which is a broker/dealer affiliate of the member which is unable itself to meet the provisions of Section 3(a)(3) hereof,

(4) the financial statements of the issuer conform in all respects with the provisions of Section 2(a) hereof,

(5) the issuer represents that it will after the distribution to the public send to each of its shareholders, or in the case of debt offerings, to each of its investors,

a. quarterly, a summary statement of its operations; and

b. annually, independently audited and certified financial statements.

(b) Notwithstanding the provisions of subsection (a) hereof, a member may participate as a member of the underwriting or selling group in the distribution of an issue of an affiliate issuer's securities which is the subject of a firm commitment underwriting managed by an underwriter who is a qualified independent underwriter in an amount not exceeding 10% of the total dollar amount thereof provided, however, that in any offering where a bona fide independent market for the securities does not exist, where more than one participating member is an equity owner of the issuer and their aggregate equity ownership is 10% or greater, the aggregate participation in the distribution by such members shall be limited to 10% of the total dollar amount of the offering, provided the requirements of Section 3(a)(3) have been fully satisfied by such participating members.

(c) Notwithstanding the provisions of subsections (a) and (b) hereof, any member who satisfies in all respects the provisions of

Section 3(a)(3) hereof may underwrite or participate in the distribution of an issue of securities of an affiliate without the pricing recommendations of two qualified independent underwriters if the offering is of a class of securities for which a bona fide independent market exists as of the date of the filing of the registration statement for the current offering and as of the effective date thereof, or if the offering is of a class of securities which are rated BAA or better by a recognized rating service.

(a) Any member which underwrites, participates in the underwriting syndicate or selling group, or assists in the distribution of a public offering of an issue of debt or equity securities of an affiliate shall meet the following criteria:

(1) the member or a predecessor member shall have been actively engaged in the investment banking or securities business for at least five years immediately preceding the filing of the registration statement;

(2) the member or predecessor member or members in at least three of the last five years immediately preceding the filing of the registration statement shall have had a profit from its operations or the pro forma combined operations of predecessor members;

(3) in the case of a member which is a corporation, the majority of the board of directors holding office as of the date of the filing of the registration statement and as of the effective date of the offering, or, in the case of a member which is a partnership, a majority of its general partners as of the date of the filing of the registration statement and as of the

effective date of the offering, or, in the case of a member which is a sole proprietorship, the proprietor, shall have been actively engaged in the investment banking or securities business for the five year period immediately preceding the filing of the registration statement;

(4) the financial statements of the issuer conform in all respects to the requirements of subsection 2(a) hereof; and

(5) the issuer represents that following completion of the distribution, it will send to each person purchasing securities subject to the offering:

a. quarterly, a summary statement of its operations; and

b. annually, independently audited and certified financial statements.

(b) In addition to the requirements of subsections 4(a)(1), 4(a)(2), and 4(a)(3) above, any member subject to this Section 4 shall comply with either subsection 4(b)(1) or 4(b)(2) below, depending on the nature of the member's participation in the distribution.

(1) A member may underwrite, participate as a member of the underwriting syndicate or selling group, or assist in the distribution to the public of an offering of an issue of debt or equity securities of an affiliate without limitation as to the amount of securities to be distributed by the member provided that one or more of the following three criteria are met:

(i) the price at which an equity issue or the yield at which a debt issue is to be distributed to the public is established by the issuer at a price no higher

or yield no lower than that recommended by two qualified independent underwriters who shall also participate in the preparation of the registration statement and the prospectus, offering circular, or similar document and each of whom shall exercise the usual standards of "due diligence" in respect thereto; or

(ii) the offering is of a class of securities for which a bona fide independent market exists as of the date of the filing of the registration statement and as of the effective date thereof; or

(iii) the offering is of a class of securities rated Baa or better by Moody's or BBB or better by Standard & Poor's rating services.

(2) A member may participate as a member of the underwriting or selling group in the distribution to the public of an offering of an issue of debt or equity securities of an affiliate in an amount not exceeding ten percent of the total dollar amount of the offering provided that the offering is the subject of a firm commitment underwriting managed by a qualified independent underwriter.

Section 5 -- Suitability

Every member underwriting an issue of its own securities, or of an affiliate, pursuant to the provisions of Section 3 or 4 hereof, who recommends to a customer the purchase of a security of such an issue shall have reasonable grounds to believe that the recommendation is

suitable for such customer on the basis of information furnished by such customer concerning the customer's investment objectives, financial situation, and needs, and any other information known by such member. In connection with all such determinations, the member must maintain in its files the basis for and reasons upon which it reached its determination.

Section 6 -- Discretionary Accounts

Notwithstanding the provisions of Article III, Section 15 of the Corporation's Rules of Fair Practice, or any other provisions of law, a transaction involving securities governed by the provisions of Section 3 or 4 hereof shall not be executed by any member in a discretionary account without the prior specific written approval of the customer.

Section 7 -- Sales to Employees -- No Limitations

Notwithstanding the provisions of the Board of Governors' Interpretation With Respect To "Free-Riding And Withholding," ~~an issuer~~ a member may sell securities ~~in an initial public offering~~ which are subject to the provisions of Section 2 or 3 hereof to its employees; potential employees resulting from intended mergers, acquisitions, or other business combination of members resulting in one public successor corporation; or persons associated with it, and ~~these~~ members of the immediate family ~~residing with, or dependent for their support upon said~~ of such employees or associated persons without

limitation as to amount and regardless of whether such persons have an investment history with the member as required by that Interpretation, provided, however, that the sale or transfer of such securities shall be restricted for a period of twelve (12) months except in the case of a bona fide gift of such securities in which case the period of restriction shall apply to the donee. Where a bona fide independent market exists for the securities of a public offering, all securities held or acquired by the above categories of persons shall be restricted for a period of ninety (90) days from the date of termination of the offering.

Section 8 -- Relationship Of Schedule E To Interpretation
With Respect To Review Of Corporate Financing

(a) Notwithstanding the provisions of the Interpretation With Respect To Review Of Corporate Financing relating to factors to be taken into consideration in determining underwriter's compensation, the value of securities of a new corporate member succeeding to a previously established partnership or sole proprietorship member acquired by such member or person associated therewith, or created as a result of such reorganization, shall not be taken into consideration in determining such.

(b) All offerings of securities included within the scope of this Schedule E including but not limited to those which are subject to the provisions of Regulation A under the Securities Act of 1933, and those which are purely intrastate in nature, shall be subject to the provisions of the Interpretation With Respect To Review Of

Corporate Financing to the extent that it is not inconsistent herewith, and all pertinent documents and filing fees relating thereto to such offerings shall be filed with the Association Corporation pursuant to the provisions thereof of that Interpretation. The responsibility for filing the required documents and fees shall be that of the issuer-member issuing securities, or, In the case of an issue of an affiliate, the responsibility for filing the required documents shall be that of the managing underwriter or, if there is none, that of the member in the affiliated relationship with the issuer. Otherwise, the Filing Requirements of the referred to Interpretation shall prevail.

(e) All members including those members affiliated with an issuer making a public offering of its securities subject to the provisions of this Schedule are required to file the appropriate documents and filing fee referred to under the "Filing Requirements" contained in the Board of Governors' Interpretation relating to the "Review of Corporate Financing" notwithstanding the fact that the securities may otherwise be expressly exempted from filing thereunder.

Section 9

If the provisions of this Schedule E are inconsistent with any other provisions of the Corporation's By-Laws, Rules of Fair Practice or Uniform Practice Code, or of any interpretation thereof or resolution of the Board of Governors, the provisions of this Schedule

shall prevail.

Section 10

The Board of Governors, upon written request, may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member unconditionally or on specific terms from any or all of the provisions of Schedule E which it deems appropriate. A hearing shall be held upon ~~such~~ a request ~~by~~ before the Committee on Corporate Financing, or a Subcommittee thereof designated ~~by it~~ for that purpose, whereupon, on the basis of the record before it, a recommendation shall be made by the Committee on Corporate Financing to the Board of Governors of its action.

Section 11

A violation of the provisions of this Schedule shall constitute conduct inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Article III, Section 1 of the Corporation's Rules of Fair Practice and possibly other sections, especially Sections 2 and 18, as the circumstances of the case may dictate.

NASD

NOTICE TO MEMBERS: 80-4
Notices to members should
be retained for future
reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D. C. 20006

January 22, 1980

TO: All NASD Members

RE: New Study Outline for the Proposed Investment Company
Products/Variable Contracts Limited Representative
Examination

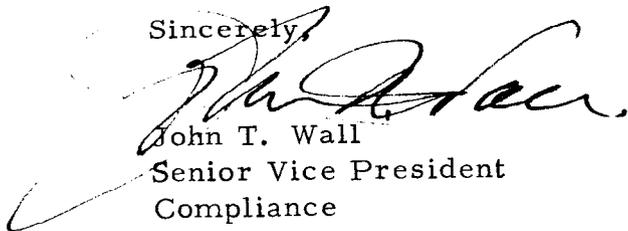
The Association has published a Study Outline for the Investment Company Products/Variable Contracts Limited Representative Examination. The outlines are available from the NASD Executive Office in Washington, D. C. and any of the NASD's fourteen district offices. The charge for each outline is \$2.00.

This outline identifies the subject matter to be covered in the proposed Investment Company Products/Variable Contracts Limited Representative Examination (Test Series 6). The Association has filed amendments to Schedule C of its By-Laws with the Securities and Exchange Commission which, when declared effective, will authorize the introduction of this examination. When these amendments are approved by the Commission, the Association will begin implementation of the Series 6 examination. Until such time applicants for registration whose securities activities are limited to investment company products and/or variable contracts will continue to take the Association's Series 1 examination. A transition period will be provided for applicants holding Series 1 examination tickets to sit for this examination after the introduction of the Series 6 test.

Upon approval of the Series 6 examination by the Securities and Exchange Commission, notification will be made to members identifying the implementation date for the Investment Company Products/Variable Contracts Limited Representative Examination and the specific procedures to be followed during the transition from the Series 1 to the Series 6 testing programs. It is hoped that computerized administration of this examination on the Plato System will be accomplished within the first quarter of 1980. The outline for the Series 6 examination is being made available at this time to afford members and training organizations a reasonable period to restructure their educational programs.

Questions regarding this notice should be directed to David Uthe (202) 833-7273 or Carole Hartzog (202) 833-7392.

Sincerely,



John T. Wall

Senior Vice President
Compliance

NASD

NOTICE TO MEMBERS: 80-5
Notices to Members should be
retained for future reference.

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

January 29, 1980

TO: All NASD Members and Municipal Securities Bank Dealers
Attention: All Operations Personnel

RE: February, 1980, Trade Date/Settlement Date Schedule

The schedule of trade dates/settlement dates below reflects the observance by the financial community of Lincoln's Birthday, Tuesday February 12, and Washington's Birthday, Monday, February 18. On Tuesday, February 12, the NASDAQ System and the exchange markets will be open for trading. However, it will not be a settlement date since many of the nation's banking institutions will be closed in observance of Lincoln's Birthday. All securities markets will be closed on Monday, February 18, in observance of Washington's Birthday.

Trade Date/Settlement Date Schedule
For "Regular-Way" Transactions

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>*Regulation T Date</u> |
|-------------------|------------------------|---------------------------|
| February 4 | February 11 | February 13 |
| 5 | 13 | 14 |
| 6 | 14 | 15 |
| 7 | 15 | 19 |
| 8 | 19 | 20 |
| 11 | 20 | 21 |
| 12 | 20 | 22 |
| 13 | 21 | 25 |
| 14 | 22 | 26 |
| 15 | 25 | 27 |
| 18 | Markets Closed | -- |
| 19 | 26 | 28 |

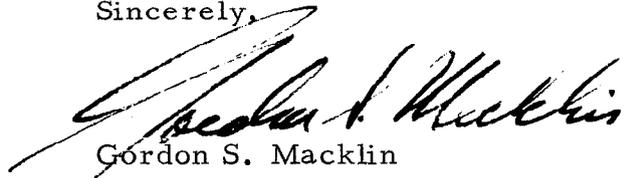
*Pursuant to Section 4(c) (2) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within seven (7) days of the date of purchase. The date upon which members must take such action for the trades is shown in the column entitled "Regulation T Date."

It should be noted that February 12 is considered a business day for receiving customers' payments under Regulation T of the Federal Reserve Board. Transactions made on Tuesday, February 12, will be combined with transactions made on the previous business day, February 11, for settlement on February 20. Securities will not be quoted ex-dividend and settlements, marks to the market, reclamations, buy-ins and sell-outs, as provided in the Uniform Practice Code will not be made and/or exercised on February 12.

The above settlement dates should be used by brokers, dealers, and municipal securities dealers for purposes of clearing and settling transactions pursuant to the Association's Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice.

Questions concerning the application of these settlement dates should be directed to the Uniform Practice Department of the NASD at (212) 422-8841.

Sincerely,



Gordon S. Macklin
President

NASD

NOTICE TO MEMBERS: 80-6
Notices to Members should be
retained for future use.

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

February 1, 1980

IMPORTANT NOTICE MISSING SECURITIES

TO: All NASD Members and Municipal Securities Bank Dealers

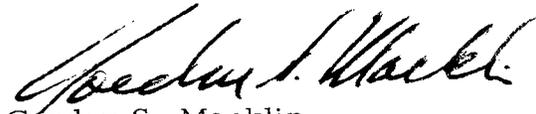
Recently, Raymond, James & Associates, Inc., 6090 Central Avenue, St. Petersburg, Florida, 33707, reported to the Association that the following securities were missing:

\$10,000 County of Montgomery Hospital Revenue
Refunding Bonds, 6.875% due 4-1-2006, certificate
nos. 3304 and 3305 by \$5,000 each, SCA 4-1-80.

If anyone comes into possession of any of the above cited certificates or receives information in regard to this matter, kindly call collect Mr. John E. Nolan, Vice President, Operations and Compliance, Raymond, James & Associates, Inc., at (813) 381-3800 (extension 243).

Please distribute this Notice to appropriate staff personnel in your organization. This Notice may be duplicated in quantities to satisfy your needs.

Sincerely,



Gordon S. Macklin
President

NOTICE TO MEMBERS: 80-7
Notices to Members should be
retained for future reference.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

March 6, 1980

TO: All NASD Members and Interested Persons

RE: Proposed Amendments to Article III, Section 26 of the Rules of Fair Practice and Proposed Repeal of Various Interpretations concerning the distribution of Investment Company Securities

Attached hereto for member comment are proposals which would revise and streamline those Association rules which are specifically directed at the distribution of investment company securities. The proposals consist of a revision of Article III, Section 26 of the Rules of Fair Practice and the repeal of several existing Interpretations of the Board of Governors. While certain of these Interpretations are proposed to be incorporated into Section 26, it is proposed that others be eliminated entirely. These proposals result from a review by the Association's Investment Companies Committee of all of the rules, policies and interpretations of the Association in this area. They represent significant reductions in the regulatory burden of members in certain areas.

While certain technical amendments are included in these proposals, there are several important policy changes involved. All members involved in the sale of mutual funds, contractual plans and unit investment trusts should review these proposals and express their views on them. Comments must be in writing and be received by the Association on or before April 7, 1980. After the close of the comment period, the proposals will again be reviewed by the Board of Governors, taking into consideration the comments received. Thereafter, upon approval by the Board, the proposals must be submitted to the membership for a vote. If approved, the proposals must then be filed with, and approved by, the Securities and Exchange Commission prior to becoming effective.

The authority for these proposals is contained in Section 15A of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78o-3), Section 22 of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-22), and Article VII of the Association's By-Laws.

Following is a summary of the rules and Interpretations proposed to be amended, a section-by-section explanation of the proposals, and the text of the proposals.

Summary of Rules and Interpretations
Proposed to be Amended

| <u>Provision</u> | <u>Current Location</u> <u>NASD Manual</u> | <u>Proposed</u> <u>Action</u> |
|--|---|--|
| Article III, Section 26 of Rules of Fair Practice | ¶ 2176 | Amendment of rule to accomplish both technical and substantive changes, including revision of the "Anti-Reciprocal" Rule |
| Interpretation concerning Contractual Plan Withdrawal and Reinstatement Privileges | ¶ 5261 | Repeal |
| Interpretation concerning "Special Deals" and Related Guidelines | ¶ 5262 | Repeal Interpretation but Incorporate certain of its principles into Section 26 |
| Interpretation concerning "Selling dividends" | ¶ 5264 | Repeal Interpretation but Incorporate into Section 26 |
| Interpretation concerning "Arranging Loans" | ¶ 5267 | Repeal |
| Interpretation concerning Anti-Reciprocal Rule | Page 2107 | Repeal Interpretation but Incorporate into Section 26 |

Section-by-Section Explanation

1. Proposed Revision of Article III, Section 26 of Rules of Fair Practice
Subparagraph (a)

The technical changes proposed to this provision are designed to clarify that Section 26 does not apply to variable contracts and to simplify the language concerning the applicability of the rule.

Subparagraph (b)

All of the definitions contained in the rule would be placed into one section. The definitions in subparagraph (b) (1) would be directly tied to definitions in the Investment Company Act. The definition of "business day" currently contained in subparagraph (b) (3) of the rule would be eliminated. No substantive changes would be made to the current definitions of "Rights of Accumulation", "any person", "covered account", or "brokerage commissions." The latter two terms are currently defined in subparagraph (k) (6) of the rule. The definition of "associated person of an underwriter" in subparagraph (b) (7) would be added to facilitate incorporation of the "Special Deals" Interpretation of the Board.

Subparagraph (c)

The proposed revision of this provision would incorporate a reference to Section 25, in lieu of restating its provisions. It would also extend the requirement for a sales agreement to contractual plans but would delete the requirement that the sales agreement itself contain provisions of Section 26. The latter requirement was originally designed to insure that members were aware of these provisions and it no longer seems necessary to maintain this requirement.

Subparagraph (d)

The only substantive changes to this provision, which is the Association's sales charge regulation, would be the elimination of language from subparagraph (d) (2) which authorizes the imposition of a reasonable service charge on dividend reinvestments, without the requirement for a reduction in the maximum sales charge which would otherwise be required by the rule. The Association believes that the imposition of such charges is rare, if not non-existent, and that it is ordinarily less costly per transaction to reinvest dividends than to issue, process and mail a dividend check. Under the circumstances, it does not seem appropriate that a separate additional charge should be permitted for an alternative which is less costly.

It is also proposed that subparagraph (d) (5) of the rule be deleted. This provision currently requires that certain information concerning sales charges be filed with the Association. Since the initial implementation of this provision on June 1, 1976, member filings have not reflected any difficulties with respect to compliance with the substantive sales charge regulations. It is therefore felt that this requirement is no longer necessary and it is adequate that compliance with these regulations be monitored as a part of the Association's routine inspection program.

Subparagraph (e)

It is proposed that the current subparagraph (e) be deleted. This provision is meant to incorporate by reference the provisions of SEC rules applicable to pricing of shares for sales, repurchase or redemption. Given the application of Rule 22c-1 under the Investment Company Act (published elsewhere in the NASD Manual), this provision no longer appears necessary.

A new subparagraph (e) is proposed which would incorporate the principles of the Association's current Interpretation concerning "Selling Dividends."

Subparagraph (f)

No substantial changes are proposed to this provision, which is a slightly modified version of current subparagraph (f) (1).

Subparagraph (g)

This provision (currently subparagraph (f) (2) of the rule) would be amended to clarify that a principal underwriter may purchase investment company shares for investment, and that money market funds can be purchased by underwriters and dealers.

Subparagraphs (g) and (h) in the current rule are proposed to be eliminated. Both of these provisions are primarily related to problems which existed prior to the implementation of SEC Rule 22c-1 and it does not appear necessary that they be retained.

Subparagraph (h)

This provision, which requires a refund of sales charges under certain circumstances, would be revised to clarify its language, including its application to principal underwriters utilizing their own sales personnel (so-called "captive" sales forces).

Subparagraph (i)

This provision, which prohibits parties to sales agreements from purchasing investment company shares as principal at a price lower than the issuer's bid price, (currently subparagraph (j) (1) of the rule) would be extended to unit investment trusts.

Subparagraph (j)

Changes in language would be made to this provision (currently subparagraphs (j)(2) and (j)(3) of the rule) and a new requirement would be added that express disclosure be made to an investor when a charge is made for handling a repurchase, to the effect that the investor can avoid that charge by direct redemption of his shares. The reference to "fair commission" would be replaced by "reasonable charge" to more accurately reflect the purpose of this provision as permitting members to recover reasonable costs of providing this service but not to charge substantial commissions which may greatly exceed the value of the service provided, considering the alternative of direct redemption which is usually available without attendant fees or charges.

Subparagraph (k)

Several changes to this provision are proposed, some of which would be substantive in nature. First, the proposed changes in the definitions in subparagraph (b) of the rule would have the effect of extending the application of this provision (commonly referred to as the Anti-Reciprocal Rule) to the distribution of securities of all investment companies. This change would be consistent with a previous request by the Securities and Exchange Commission. The Board's Interpretation of this provision, as currently published on Page 2107 of the NASD Manual, would also be incorporated into the rule. The Interpretation would then be repealed. Those provisions of the Interpretation which are being incorporated into the rule are indicated as new even though they have not been materially changed.

Most importantly, however, a proposed revision to the substantive provisions of this subparagraph is included for member comment. The most significant of these revisions would be the addition of the language in paragraph (k)(7)(B), which would permit members to sell shares of an investment company which follows a disclosed policy of considering sales of shares as a factor in the selection of broker-dealers to execute portfolio transactions. This proposal is essentially identical to one previously submitted to the SEC as part of the Association's testimony at the Commission's public hearings on this general subject (See SEC Release No. 10867 under the Securities Exchange Act of 1934, dated June 20, 1974). While this prior proposal was based in substantial part on members' responses to a questionnaire utilized to assist in the preparation of our testimony and written submissions to the Commission, it has not previously been submitted to the membership for comment. The Board is therefore taking this opportunity to solicit member comment.

The primary impact of the proposed amendemnt to subparagraph (k) would be the elimination of certain of the anti-competitive impacts

which appear to result from its current language. As stated to the Commission during its public hearings, the language of the current rule seems to have a particularly severe impact on smaller investment companies and dealers, which is directly contrary to one of the stated goals of the Commission in requesting that the Association adopt the rule originally. There have also been many important changes in the competitive environment since the rule was adopted and the Association believes that the specific provisions of the rule which would be retained under this proposal would be sufficient to control the abuses with which the Commission was concerned, without unduly restricting the flexibility of investment companies and broker-dealers to compete.

Subparagraph (1)

This provision would incorporate into the rule several of the principles of the Association's "Special Deals" Interpretation. It represents some important changes from traditional applications of the Interpretation and its Guidelines, however. While existing prohibitions against undisclosed dealer concessions would be retained, as would most of the specific examples of acceptable and unacceptable concessions, certain previous restrictions would be eliminated.

The Interpretation had generally been applied to prohibit concessions which were not uniform to all dealers. The proposed revision would permit special arrangements if accompanied by adequate specific prospectus disclosure. The Interpretation had also been applied to prohibit most non-cash concessions such as merchandise and trips. Such non-cash concessions would be permitted under the proposed rule, as they have been under the Interpretation in recent years, if disclosed and if selling dealers have an option to receive a cash equivalent. The cash equivalent must be at least the cost of the merchandise, etc. to the sponsor, but it could be higher, such as where the value to the dealer may be in excess of the sponsor's cost.

Subparagraph (1) (1) (A) of the revised rule would also clarify that concessions in the form of securities are prohibited. Such concessions are believed to present an unacceptable conflict of interest to the dealer. Other changes would clarify that: dealer concessions, by definition, cannot be paid directly to representatives (subparagraph (1) (2)); gifts, even those under the \$50 limit, cannot be conditional (subparagraphs (1) (3) (B) and (C); informational meetings cannot be conditional or include non-registered persons (subparagraph (1) (3) (B) (v)). Subparagraph (1) (4) clarifies that the prohibitions of this portion of the rule do not apply to contracts between principal underwriters, or between a principal underwriter and the sponsor of a unit investment trust, or to internal compensation arrangements. The annual limitation on gifts would be increased to \$50 from \$25.

2. Interpretation Concerning Contractual Plan Withdrawal and Reinstatement Privileges

It is proposed that this Interpretation be eliminated. It was adopted by the Board in 1966 to deal with a specific problem related to the impact of certain types of promotional activities on investment companies and their shareholders. Since the time the Interpretation was adopted, there have been a variety of court decisions dealing with the general subject of the responsibility of investment company directors toward shareholders. The Board is of the view that the responsibility of investment company directors to protect the interests of shareholders is now so clear that the subject Interpretation is unnecessary and should be repealed. Participation by members in practices which are harmful to investment company shareholders and which violate federal securities laws will, of course, be inconsistent with NASD rules.

3. Interpretation Concerning "Special Deals"

This Interpretation would be repealed but several of its principles, and interpretations thereof, have been incorporated into Section 26. Reference should be made to the explanation of subparagraph (1) of Section 26.

4. Interpretation Concerning "Selling Dividends"

This Interpretation would be repealed but its provisions have been incorporated into subparagraph (e) of Section 26.

5. Interpretation Concerning "Arranging Loans"

It is proposed that this Interpretation be repealed as unnecessary. The Interpretation essentially represents an explanation of the application of Section 11 (d)(1) of the Securities Exchange Act, and Regulation T of the Federal Reserve Board, to the extension of credit on investment company shares. The Federal Reserve Board has proposed an amendment to Regulation T which would, if adopted, remove the current prohibition against broker-dealer extension of credit on mutual fund shares. Also, both the Association and the Investment Company Institute have requested that the Securities and Exchange Commission reconsider the application of Section 11 (d)(1) of the Securities Exchange Act to mutual fund distributions. Since the subject Interpretation is directly related to these matters, and since it does not add substantively to existing restrictions, the Board proposes to repeal it.

6. Interpretation Concerning Anti-Reciprocal Rule

This Interpretation would be repealed but it would be incorporated into Section 26. Reference should be made to subparagraph (k) of Section 26.

* * *

Comments on these proposals should be in writing and addressed to David P. Parina, Secretary, NASD, 1735 K Street, N.W., Washington, D.C., 20006. Comments must be received by the Association by April 7, 1980 in order to receive consideration. All comments will be available for inspection. Questions regarding this notice should be directed to Mr. Robert L. Butler, (202) 833-7272.

Sincerely,



Frank J. Wilson
General Counsel and
Senior Vice-President
Regulatory Policy

Text of Proposed Amendments

(new material underlined; deleted material in brackets)

Article III, Section 26

Rules of Fair Practice

Application

- (a) Except [for the provisions of paragraph (d)] as otherwise specified, this [rule] section shall apply exclusively to the activities of members in connection with the securities of an "open-end management investment company" as defined in the Investment Company Act of 1940; provided however, that Section 29 of this Article shall apply, in lieu of this section, to members' activities in connection with "variable contracts" as defined therein.

Definitions [:]

- (b)(1) The terms "underwriter", "principal underwriter", and "redeemable security", [as used throughout this rule shall mean a principal underwriter as defined in the first sentence of section 2(a)(28) of] shall have the same definitions used in the Investment Company Act of 1940.
- (2) [The term] "public offering price" [as used throughout the rule] shall mean a public offering price as set forth in the prospectus of the issuing company.
- [(3) The term "business day" shall be a day on which the New York Stock Exchange is open for trading.]
- [(4)] (3) [The term] "Rights of Accumulation" as used in paragraph (d) of this [Rule] section shall mean a scale of reducing sales charges in which the sales charge applicable to the securities being purchased is based upon the aggregate quantity of securities previously purchased or acquired and then owned plus the securities being purchased. The quantity of securities owned shall be based upon:
- [(a)] (A) The current value of such securities (measured by either net asset value or maximum offering price); or
- [(b)] (B) Total purchases of such securities at actual offering prices; or
- [(c)] (C) The higher of the current value or the total purchases of such securities.

The quantity of securities owned may also include redeemable securities of other registered investment companies having the same principal underwriter.

- [(5)] (4) [The term] "any person" [as used in this rule] shall mean "any person" as defined in paragraph (a), or "pruchaser" as defined in paragraph (b), of Rule 22d-1 under the Investment Company Act of 1940.
- (5) "covered account", as used in paragraph (k) of this section, shall mean (A) any other investment company or other account managed by the investment adviser of such investment company, or (B) any other account from which brokerage commissions are received or expected as a result of the request or direction of any principal underwriter of such investment company or of any affiliated person (as defined in the Investment Company Act of 1940) of such investment company or of such underwriter, or of any affiliated person of an affiliated person of such investment company.
- (6) "brokerage commissions," as used [herein or in any Interpretation hereof by the Board of Governors] in paragraph (k) of this section, shall not be limited to commissions on agency transactions but shall include underwriting discounts or concessions and fees paid to members in connection with tender offers.
- (7) "Associated person of an underwriter," as used in paragraph (1) of this section shall include an issuer for which an underwriter is the sponsor or a principal underwriter, any investment adviser to such issuer, or any affiliated person (as defined in Section 2(a)(3) of the Investment Company Act of 1940) of such underwriter, issuer, or investment adviser.

Conditions for Discounts to Dealers

- (c) [No member may purchase at a discount from a public offering price any security of an open-end investment company from an underwriter of such securities unless the underwriter is also a member.] No member who is an underwriter of the securities of an open-end management investment company or of a periodic payment plan issued by a unit investment trust shall sell any such security to any dealer or broker at any price other than a public offering price unless (1) [such dealer or broker is a member] such sale is in conformance with Section 25 of this Article and (2) at the time of the sale a sales agreement is in effect between the parties [The sales], which agreement shall set forth the concessions to be received by the dealer or broker. [and contain the provisions set forth in paragraphs (f), (g), (i) and subparagraphs (1) and (3) of paragraph (j). In addition, the sales agreement may contain among its provisions such of the other requirements of this rule as the parties may deem pertinent or appropriate, but the failure so to include any such other requirement shall not exempt any transaction from the effect of this rule or any part thereof.]

Sales Charge

- (d) No member shall offer or sell the shares of any open-end investment company or any "single payment" investment plan issued by a unit investment trust registered under the Investment Company Act of 1940 if the public offering price includes a sales charge which is excessive, taking into consideration all relevant circumstances. Sales charges shall be deemed excessive if they do not conform to the following provisions:
- (1) The maximum sales charge on any transaction shall not exceed 8.5% of the offering price.
- (2)[(a)] (A) Dividend reinvestment shall be made available at net asset value per share to "any person" who requests such reinvestment at least ten days prior to the record date, subject only to the right to limit the availability of dividend reinvestment to holders of securities of a stated minimum value, not greater than \$1200 [, and provided that a reasonable service charge may be applied against each reinvestment of dividends].
- [(b)] (B) If dividend reinvestment is not made available on terms at least as favorable as those specified in subsection (2) [(a)] (A), the maximum sales charge on any transaction shall not exceed 7.25% of offering price.
- (3)[(a)] (A) Rights of Accumulation (cumulative quantity discounts) shall be made available to "any person" for a period of not less than ten (10) years from the date of first purchase in accordance with one of the alternative quantity discount schedules provided in subsection (4)[(a)] (A) below, as in effect on the date the right is exercised.
- [(b)] (B) If Rights of Accumulation are not made available on terms at least as favorable as those specified in subsection (3)[(a)](A), the maximum sales charge on any transaction shall not exceed:
- (1) 8.0% of offering price if the provisions of subsection (2) [(a)](A) are met; or
- (2) 6.75% of offering price if the provisions of subsection (2) [(a)](A) are not met.
- (4)[(a)] (A) Quantity discounts shall be made available on single purchases by "any person" in accordance with one of the following two alternatives:
- [(1)] (i) A maximum sales charge of 7.75% on purchases of \$10,000 or more and a maximum sales charge of 6.25% on purchases of \$25,000 or more; or
- [(2)](ii) A maximum sales charge of 7.50% on purchases of \$15,000 or more and a maximum sales charge of 6.25% on purchases of \$25,000 or more

[(b)] (B) If quantity discounts are not made available on terms at least as favorable as those specified in subsection (4)[(a)] (A), the maximum sales charge on any transaction shall not exceed:

[(1)](i) 7.75% of offering price if the provisions of subsections (2)[(a)](A) and (3)[(a)](A) are met;

[(2)](ii) 7.25% of offering price if the provisions of subsection (2)[(a)](A) are met but the provisions of subsection (3)[(a)](A) are not met;

[(3)](iii) 6.50% of offering price if the provisions of subsection (3)[(a)](A) are met but the provisions of subsection (2)[(a)](A) are not met;

[(4)](iv) 6.25% of offering price if the provisions of subsection (2)[(a)](A) and (3)[(a)](A) are not met.

[(5)] Every member who is an underwriter of shares of an open-end investment company or of a "single payment" investment plan issued by a unit investment trust shall file with the Investment Companies Department of the Association, prior to implementation, the details of any changes or proposed changes in the sales charges on any such securities, if the changes or proposed changes would increase the effective sales charge on any transaction. Such filings shall be clearly identified as an "Amendment to Investment Company Sales Charges".]

[Calculation of Public Offering Price

(e) No member shall offer or sell any such security except at the effective public offering price described in the current prospectus of the issuing company and in accordance with rules and regulations of the Securities and Exchange Commission, including any interpretations thereunder.]

Selling Dividends

(e) No member shall, in recommending the purchase of investment company securities, state or imply that the purchase of such securities shortly before an ex-dividend date is advantageous to the purchaser, and no member shall represent that distributions of long-term capital gains by an investment company are or should be viewed as part of the income yield from an investment in such company's securities.

Withhold Orders

(f)[(1)] No member shall withhold placing customers' orders for any [such] investment company security so as to profit himself as a result of such withholding.

Purchase for Existing Orders

[(2)](g) No member shall purchase from an underwriter the securities of any open-end investment company [of which it is the underwriter from such company] and no member who is an underwriter of such securities shall purchase such securities from the issuer, except (1) for the purpose of covering purchase orders [already] previously received [and no member shall purchase such securities from the underwriter other than] or (2) for its own investment [except for the purpose of covering purchase orders already received]. Nothing herein shall be deemed to prohibit any member from purchasing securities of any investment company specifically designed for short-term investment (e.g., a money market fund) provided that such purchase is not contrary to the interests of such investment company.

[Conditional Orders

(g) No member who is an underwriter shall accept a conditional order for the securities of an open-end investment company on any basis other than at a specified definite price.]

[Redemption

(h) No member shall participate as a principal underwriter in the offer or sale of any security if the issuer thereof directly or indirectly redeems or voluntarily repurchases its securities at a price higher than the net asset value upon which is based the effective public offering price.]

[Sales Agreement Provision] Refund of Sales Charge

[(i)](h) [The sales agreement referred to in paragraph (c) shall contain a provision to the effect that] [i]If any [such] security issued by an open-end management investment company is repurchased by the issuer, or by the underwriter for the account of the issuer, or is tendered for redemption within seven business days after [confirmation by the underwriter of the original purchase order of the dealer or broker for such security] the date of the transaction, (1) the dealer or broker shall forthwith refund to the underwriter the full concession allowed to the dealer or broker on the original sale and (2) the underwriter shall forthwith pay to the issuer the underwriter's share of the ["load"] sales charge on the original sale by the underwriter and shall also pay to the issuer the refund which he receives under clause (1) when he receives it. The dealer or broker shall be notified by the underwriter of such repurchase or redemption within ten days of the date on which the certificate or written request for redemption is delivered to the underwriter or issuer. If the original sale was made directly to the investor by the principal underwriter, the entire sales charge shall be paid to the issuer by the principal underwriter.

Purchase as Principal

[(j)(1)](i) No member who is a party to a sales agreement referred to in paragraph (c) shall, as principal, purchase any [such] security issued by an open-end management investment company or unit investment trust from a record holder at a price lower than the bid price next quoted by or for the issuer.

Repurchase from dealer

[(2)](j) No member who is a[n] principal underwriter of [such] a security issued by an open-end management investment company shall repurchase such security, either as principal or as agent for the issuer, from a dealer acting as principal who is not a party to a sales agreement with [the] a principal underwriter, [(as described in paragraph (c))] nor from any investor, unless such dealer or investor is the record owner of the security so tendered for repurchase. No member who is a[n] principal underwriter shall participate in the offering or in the sale of any such security if the issuer voluntarily redeems or repurchases its securities from a dealer acting as principal who is not a party to such a sales agreement nor from any investor, unless such dealer or investor is the record owner of the security so tendered for repurchase. Nothing in this subparagraph shall relate to compulsory redemption of any security upon presentation to the issuer pursuant to the terms of the security.

[(3)] Nothing in this [paragraph (j)] section shall prevent any member, whether or not a party to a sales agreement referred to in paragraph (c), from selling any such security for the account of a record owner to the underwriter or issuer at the bid price next quoted by or for the issuer and charging the investor a [fair commission] reasonable charge for handling the transaction, provided that disclosure is made to such record owner that direct redemption of the security can be accomplished by the record owner without incurring such charges.

Execution of Investment Company Portfolio Transactions

(k)(1) No member shall, directly or indirectly, favor or disfavor the distribution of shares of any particular investment company or group of investment companies on the basis of brokerage commission received or expected by such member from any source, including such investment company, or any covered account.

(2) No member shall, directly or indirectly, demand[,] or require[,] or solicit an offer or promise of an amount or percentage of] brokerage commissions or solicit a promise of such commissions from any source [in connection with, or] as a condition to[,] the sale of shares of an investment company.

(3) No member shall, directly or indirectly, offer or promise to another member, [or request or arrange for the direction to any member, of an amount or percentage of] brokerage commissions from any source as [an inducement or reward for] a condition to the sale of shares of an investment company[,] and no member

shall request or arrange for the direction to any member of a specific amount or percentage of brokerage commissions conditioned upon that member's sales or promise of sales of shares of an investment company.

(4) No member shall circulate any information regarding the amount or level of brokerage commissions received by the member from any investment company or covered account to other than management personnel who are required, in the overall management of the member's business, to have access to such information.

(5) No member shall, with respect to such member's activities as an underwriter of investment company shares, suggest, encourage, or sponsor any incentive campaign or special sales effort of another member with respect to the shares of any investment company which incentive or sales effort is, to the knowledge or understanding of such underwriter-member, to be based upon, or financed by, brokerage commissions directed or arranged by the underwriter-member.

(6) No member shall, with respect to such member's retail sales of investment company shares:

(A) provide to salesmen, branch managers or other sales personnel any incentive or additional compensation for the sale of shares of specific investment companies based on the amount of brokerage commissions received or expected from any source, including such investment companies or any covered account. Included in this prohibition are bonuses, preferred compensation lists, sales incentive campaigns or contests, or any other method of compensation which provides an incentive to sales personnel to favor or disfavor any investment company or group of investment companies based on brokerage commissions;

(B) recommend specific investment companies to sales personnel, or establish "recommended", "selected", or "preferred" lists of investment companies, regardless of the existence of any special compensation or incentives to favor or disfavor the shares of such company or companies in sales efforts, if such companies are recommended or selected on the basis of brokerage commissions received or expected from any source;

(C) grant to salesmen, branch managers or other sales personnel any participation in brokerage commissions received by such member from portfolio transactions of an investment company whose shares are sold by such member, or from any covered account, if such commissions are directed by, or identified with, such investment company or any covered account; or

(D) use sales of shares of any investment company as a factor in negotiating the price of, or the amount of brokerage commissions to be paid on, a portfolio transaction of an investment company or of any covered account, whether such transaction is executed in the over-the-counter market or elsewhere.

[(5)](7) Nothing [herein] in this paragraph (k) shall be deemed to prohibit:

(A) the execution of portfolio transactions of any investment company or covered account by members who also sell shares of the

investment company, [; provided, however, that members shall seek orders for execution on the basis of the value and quality of their brokerage services and not on the basis of their sales of investment company shares.];

(B) a member from selling shares of, or acting as underwriter for, an investment company which follows a policy, disclosed in its prospectus, of considering sales of shares of the investment company as a factor in the selection of broker-dealers to execute portfolio transactions when such broker-dealers are qualified to provide best execution;

(C) a member from compensating its salesmen and managers based on total sales of investment company shares attributable to such salesmen or managers, whether by use of overrides, accounting credits, or other compensation methods, provided that such compensation is not designed to favor or disfavor sales of shares of particular investment companies on a basis prohibited by this paragraph (k).

Compensation to Dealers

(1)(1) No underwriter or associated person of an underwriter shall offer, pay, or arrange for the offer or payment to any other member, in connection with retail sales or distribution of investment company securities, any discount, concession, fee or commission which:

(A) is in the form of securities of any kind, including stock, warrants or options;

(B) is in a form other than cash (e.g., merchandise or trips), unless the member earning the concession may elect to receive cash at the equivalent of no less than the underwriter's cost of providing the noncash concession; or

(C) is not disclosed in the prospectus of the investment company. If the concessions are not uniformly paid to all dealers purchasing the same dollar amounts of securities from the underwriter, the disclosure shall include a description of the circumstances of any general variations from the standard schedule of concessions. If special compensation arrangements have been made with individual dealers, which arrangements are not generally available to all dealers, the details of the arrangements, and the identities of the dealers, shall also be disclosed.

(2) No underwriter or associated person of an underwriter shall offer or pay any discount, concession, fee or commission to an associated person of another member, but shall make such payment only to the member.

(3)(A) In connection with retail sales of investment company shares, no underwriter or associated person of an underwriter shall offer or pay to any member or associated person, anything of material value, and no member or

associated person shall solicit or accept anything of material value, in addition to the discounts, concessions, fees or commissions disclosed in the prospectus.

(B) For purposes of this subparagraph (1)(3), items of material value shall include, but are not limited to:

(i) gifts amounting in value to more than \$50 per person per year.

(ii) gifts or payments of any kind which are conditioned on the sale of investment company securities.

(iii) loans made or guaranteed to a non-controlled member or person associated with a member.

(iv) Wholesale overrides (commissions) granted to a member on its own retail sales unless the arrangement, as well as the identity of the member, is set forth in the prospectus of the investment company.

(v) Payment or reimbursement of travel expenses, including overnight lodging, in excess of \$50.00 per person per year unless such payment or reimbursement is in connection with a business meeting, conference or seminar held by an underwriter for informational purposes relative to the fund or funds of its sponsorship and is not conditioned on sales of shares of an investment company. A meeting, conference or seminar shall not be deemed to be of a business nature unless: (i) the person to whom payment or reimbursement is made is personally present at, or is en route to or from, such meeting on each of the days for which payment or reimbursement is made; (ii) the person on whose behalf payment or reimbursement is made is engaged in the securities business; and (iii) the location and facilities provided are appropriate to the purpose, which would ordinarily mean the sponsor's office.

(C) For purposes of this subparagraph (1)(3), items of material value shall not include:

(i) an occasional dinner, a ticket to a sporting event or the theatre, or comparable entertainment of one or more registered representatives which is not conditioned on sales of shares of an investment company and is neither so frequent nor so extensive as to raise any question of propriety.

(ii) a breakfast, luncheon, dinner, reception or cocktail party given for a group of registered representatives in conjunction with a bona fide business or sales meeting, whether at the headquarters of a fund or its underwriter or in some other city.

(iii) an unconditional gift of a typical item of reminder advertising such as a ballpoint pen with the name of the advertiser inscribed, a calendar pad, or other gifts amounting in value to not more than \$50 per person per year.

(4) The provisions of this paragraph (1) shall not apply to:

(A) Contracts between principal underwriters of the same security.

(B) Contracts between the principal underwriter of a security and the sponsor of a unit investment trust which utilizes such security as its underlying investment.

(C) Compensation arrangements of an underwriter or sponsor with its own sales personnel.

NOTICE TO MEMBERS: 80-8
Notices to Members should be
retained for future reference.

NASD

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

March 6, 1980

TO: All NASD Members

RE: Simpson, Emery & Company, Inc.
Penthouse, Manor Building
564 Forbes Avenue
Pittsburgh, Pennsylvania 15219

ATTN: Operations Officer, Cashier, Fail-Control Department

On Monday, March 3, 1980, the United States District Court for the Western District of Pennsylvania appointed a SIPC trustee for Simpson, Emery & Company, Inc. Members may use the "immediate close-out" procedures as provided in Section 59(i) of the NASD's Uniform Practice Code to close-out open OTC contracts. Also, MSRB Rule G-12 (h)(iv) provides that members may use the above procedures to close-out transactions in municipal securities.

Questions regarding the firm should be directed to:

Carl F. Barger, Esquire
Eckert, Seamans, Cherin & Mellott
42nd Floor
600 Grant Street
Pittsburgh, Pennsylvania 15219
Telephone (412) 566-6000

February 8, 1980

AMERICAN STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED
MIDWEST STOCK EXCHANGE, INCORPORATED
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
NEW YORK STOCK EXCHANGE, INC.
PACIFIC STOCK EXCHANGE INCORPORATED
PHILADELPHIA STOCK EXCHANGE, INC.

TO: All Members, Member Organizations and Interested Persons

ATTENTION: Chief Executive Officers, Managing Partners, Chief Operating Officers, Registered Options Principals, Compliance Officers, and Branch Office Managers

The Securities and Exchange Commission will shortly consider a number of proposed rule changes which have been filed by the Self-Regulatory Organizations in response to the Special Study of the Options Markets. SEC action on the rule proposals is required prior to the lifting of the options moratorium. Draft copies of the proposals, which were developed by an SRO Task Force along with industry representatives, were circulated to all segments of the industry in May and November, 1979.

The new rules (which are all expected to be approved by the SEC) are quite comprehensive and will affect numerous aspects of each firm's ability to conduct options business. Some rules become effective immediately upon approval while others will be "phased-in" over the next several months. To assist firms in their understanding of the new rules and planning for post-moratorium expansion, representatives of the SRO Task Force will conduct ten seminars throughout the country. Accordingly all firms should ensure that appropriate personnel--ROPs, Senior ROPs, Compliance Officers, and other employees--attend one of the seminars. There will be no charge for any of the seminars, but pre-registration is required. Seminars will be held from 1:00 pm - 5:00 pm local time, in accordance with the following schedule:

| | | |
|----------|---------------------|---------------------------|
| March 3 | St. Louis | Marriott's Pavilion Hotel |
| March 4 | New York (uptown) | Plaza Hotel |
| March 5 | New York (downtown) | New York University |
| March 6 | Philadelphia | Fairmont Hotel |
| March 7 | Atlanta | Peachtree Plaza |
| March 10 | Chicago | Hyatt Regency |
| March 11 | Dallas | Dallas Hilton |
| March 12 | Houston | Rotan Mosle Meeting Room |
| March 13 | Los Angeles | Beverly Hills Ramada |
| March 14 | San Francisco | Fairmont Hotel |

In order that sufficient space is reserved, please complete and return the attached registration form.

NAME _____ POSITION _____

FIRM _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____ PHONE _____

SEMINAR TO BE ATTENDED _____ # ATTENDING _____

Return to: Barbara Kaplan, CBOE, 141 W. Jackson, Rm. 2200, Chicago, IL 60604

NASD

NOTICE TO MEMBERS: 80-9
Notices to Members should be
retained for future reference.

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

March 10, 1980

M E M O R A N D U M

TO: All NASD Members

RE: Securities and Exchange Commission Approval of Amendments
to Schedule C of the By-Laws Concerning the Registration of
Options Principals

On February 22, 1980, the Securities and Exchange Commission approved a rule change proposal originally filed by the Association on December 5, 1979, which is designed:

- to eliminate the requirement that members who trade options for their own accounts but who do not do a public options business must qualify a Registered Options Principal (ROP); and,
- to outline procedures to be followed by members to replace a sole ROP who may have been lost to the firm as a result of, among other reasons, termination, resignation or death.

The rule change, which affects Section 2 of Part I to Schedule C of the Association's By-Laws, becomes effective immediately. Section 2(e)(i) of Schedule C has been amended to conform the Association's rules regarding the qualification of Registered Options Principals (ROPs) with those of the options exchanges. Hereafter, only those members who do a public options business will be required to qualify a ROP and identify such person to the Association. Members who trade options solely for their own accounts will be exempt from the Association's ROP requirement.

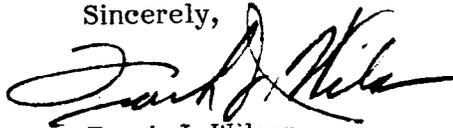
In addition to the above, a new Resolution of the Board of Governors pertaining to ROP qualification has been adopted. The Resolution outlines the procedures to be followed in the event a member loses its sole ROP as a result of, among other reasons, termination, resignation or death. For firms with a single

Options Principal, the sudden loss of this person would place them in violation of Association rules which require all members doing a public options business to have at least one ROP. The Resolution is designed to provide such firms with a reasonable amount of time in which to qualify a new Registered Options Principal while allowing them in the interim to conduct a limited options business.

The Resolution requires members with a single ROP promptly to notify the Association in the event such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform the duties of an Options Principal. Following receipt of such notice, members will be required to agree in writing to refrain from any options-related activities which would necessitate prior or subsequent ROP approval, except for closing transactions which would reduce or eliminate an existing open option position, until such time as a new ROP has been qualified. Members will be given the longer of two weeks or the date of the next available Options Principal examination to qualify a new ROP. Thereafter, members still without an Options Principal will be required to cease doing an options business except to the extent that they may effect closing transactions in order to reduce or eliminate existing open options positions.

The full text of the rule change appears immediately hereafter. Questions concerning this notice should be directed to S. William Broka, Assistant Director, Regulatory Policy and Procedures at (202) 833-7247 or your appropriate NASD District Office.

Sincerely,



Frank J. Wilson
Senior Vice President
Regulatory Policy and
General Counsel

Attachment

The following is the full text of amendments to Schedule C of Article I, Section 2(d) of the Association's By-Laws. Deleted material is indicated by brackets, additional language is underlined.

Article I, Section 2(d), Schedule C

Part I, Section (2)

Subsections (a) through (d) - No change

(e) Registered Options Principals

(i) Every member of the Corporation which is engaged in, or which intends to engage in transactions in put or call options with the public[, or for its own account,] shall have at least one Registered Options Principal who shall have satisfied the requirements of Part I, Paragraph (5) hereof. Each such member shall also designate a Senior Registered Options Principal and identify such person to the Corporation. A member which has a Registered Options Principal qualified in either put or call options shall not engage in both put and call option transactions until such time as it has a Registered Options Principal qualified in both such options. Every person engaged in the management of the day-to-day options activities of a member shall also be registered as a Registered Options Principal. In the event any Registered Options Principal ceases to act in such capacity, such fact shall be reported promptly to the Corporation together with a brief statement of the reasons therefor.

Subsections (ii) through (v) - No change

.....Resolution of the Board of Governors

Members having a single Registered Options Principal are required promptly to notify the Corporation in the event such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform the duties of an Options Principal.

Following receipt of such notification, the Corporation will require members to agree, in writing, to refrain from engaging in any options-related activities which would necessitate the prior or subsequent approval of an Options Principal including, among other things, the opening of new options accounts or the execution of discretionary orders for option contracts until such time as a new Registered Options Principal has been qualified provided, however, that closing transactions which normally would require ROP approval may be effected in order to reduce or eliminate existing open options positions.

Members failing to qualify a new Registered Options Principal within two weeks following the loss of their sole Registered Options Principal, or by the earliest available date for administration of the Series 4 Options Principal examination, whichever is longer, shall be required to cease doing an options business; provided, however, they may effect closing transactions in order to reduce or eliminate existing open options positions in their own account as well as the accounts of their customers.

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

TO: ALL NASD MEMBERS
FROM: C. Richard Justice 
DATE: March 18, 1980
SUBJECT: Relocation of District 12 and
System Development Department

Effective March 31, 1980, the Association's New York District Office (District No. 12) and the System Development Department will be relocating to:

98th Floor
2 World Trade Center
New York, NY 10048
(212)938-1177

* * *

NASD

NOTICE TO MEMBERS:
Notices to Members should
retained for future reference

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

March 20, 1980

TO: All NASD Members and Municipal Securities Bank Dealers
Attention: All Operations Personnel

RE: Holiday Trade Date - Settlement Date Schedule

Securities markets and the NASDAQ System will be closed on Good Friday, April 4, 1980. "Regular-Way" transactions made on the business days immediately preceding that day will be subject to the following schedule.

Trade Date-Settlement Date Schedule
For "Regular-Way" Transactions

| <u>Trade Date</u> | <u>Settlement Date</u> | <u>*Regulation T Date</u> |
|-------------------|------------------------|---------------------------|
| March 27 | April 3 | April 8 |
| 28 | 7 | 9 |
| 31 | 8 | 10 |
| April 1 | 9 | 11 |
| 2 | 10 | 14 |
| 3 | 11 | 15 |
| 4 | Good Friday | ---- |
| 7 | 14 | 16 |

The above settlement dates should be used by brokers, dealers and municipal securities dealers for purposes of clearing and settling transactions pursuant to the Association's Uniform Practice Code and the Municipal Securities Rulemaking Board's Rule G-12 on uniform practice.

*Pursuant to Section 4(c)(2) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within seven (7) days of the date of purchase. The date upon which members must take such action for the trades indicated is shown in the column entitled "Regulation T Date."

Questions concerning the application of these settlement dates to a particular situation should be directed to the Uniform Practice Department of the NASD at (212) 422-8841.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gordon S. Macklin". The signature is written in dark ink and is positioned above the printed name and title.

Gordon S. Macklin
President