

ARTICLE II

Qualifications of Members and Associated Persons

Persons Eligible to Become Members and Associated Persons of Members

Sec. 1. (a) Any registered broker, dealer, [or] municipal securities broker or dealer, or government securities broker or dealer authorized to transact, and whose regular course of business consists in actually transacting, any branch of the investment banking or securities business in the United States, under the laws of the United States, shall be eligible for membership in the Corporation, except such registered brokers, dealers, [or] municipal securities brokers or dealers, or government securities brokers or dealers which are excluded under the provisions of Sections 3(a) or (b) of this Article.

(b) Any person shall be eligible to become an associated person of a member, except such persons who are excluded under the provisions of Section 3(b) of this Article.

Authority of Board to Adopt Qualification Requirements

Sec. 2. (a) The Board of Governors shall have authority to adopt rules and regulations applicable to applicants for membership, members and persons associated with applicants or members establishing specified and appropriate standards with respect to the training, experience, competence and such other qualifications as the Board of Governors finds necessary or desirable, and in the case of an applicant for membership or a member, standards of financial responsibility or operational capability. This authority shall not extend to government securities brokers or dealers or to persons associated with government securities brokers or dealers.

(b) In establishing and applying such standards, the Board of Governors may classify members and persons associated with such members, taking into account relevant matters, including the nature, extent and type of business being conducted and of securities sold, dealt in, or otherwise handled. The Board of Governors may specify that all or any portion of such standards shall be applicable to any such class and may require the persons in any such class to be registered with the Corporation.

(c) The Board of Governors may from time to time make changes in such rules, regulations and standards as it deems necessary or appropriate. Neither the adoption nor any change in such standards need be submitted to the membership for approval and such rules, regulations and standards as adopted or amended shall become effective at such time as the Board of Governors may prescribe.

Ineligibility of Certain Persons for Membership or Association

Sec. 3. (a) No registered broker, dealer, [or] municipal securities broker or dealer, or government securities broker or dealer shall be admitted to membership, and no member shall be continued in membership, if such broker, dealer, [or] municipal securities broker or dealer or government securities broker or dealer, or member fails or ceases to satisfy the qualification requirements under Section 2 of this

Article, if applicable, or if such broker, dealer, municipal securities broker or dealer or government securities broker or dealer, or member is or becomes subject to a disqualification under Section 4 of this Article.

(b) No person shall become associated with a member, or continue to be associated with a member, or transfer association to another member, if such person fails or ceases to satisfy the qualification requirements under Section 2 of this Article, or if such person is or becomes subject to a disqualification under Section 4 of this Article; and no broker, dealer, [or] municipal securities broker or dealer, or government securities broker or dealer shall be admitted to membership, and no member shall be continued in membership if any person associated with it is ineligible to be an associated person under this subsection.

(c) If it deems it appropriate, the Board of Governors, upon notice and opportunity for a hearing, may cancel the membership of a member if it becomes ineligible for continuance in membership under subsection (a) hereof, may suspend or bar a person from continuing to be associated with any member if such person is or becomes ineligible for association under subsection (b) hereof, and may cancel the membership of any member who continues to be associated with any such ineligible person.

(d) Any broker, dealer, [or] municipal securities dealer, or government securities broker or dealer which is ineligible for admission into membership, or any member which is ineligible for continuance in membership, may file with the Board of Governors an application requesting relief from the ineligibility, pursuant to procedures adopted by the Board of Governors and contained in the Corporation's Code of Procedure. The Board of Governors may, in its discretion, approve the admission or continuance of an applicant or member, or the association of any person, if the Board determines that such approval is consistent with the public interest and the protection of investors. Any approval hereunder may be granted unconditionally or on such terms and conditions as the Board considers necessary or appropriate. In the exercise of the authority granted hereunder, the Board of Governors may:

(1) conduct such inquiry or investigation into the relevant facts and circumstances as it, in its discretion, considers necessary to its determination, which, in addition to the background and circumstances giving rise to the failure to qualify or disqualification may include the proposed or present business of an applicant for membership or of a member and the conditions of association of any prospective or presently associated person, among other matters;

(2) permit, in limited types of situations, a membership or association with a member pending completion of its inquiry or investigation, and its final determination, based upon a consideration of relevant factors, and may classify situations taking into account the status of brokers, dealers and municipal securities brokers and dealers as applicants or existing members and of persons as prospective or presently associated persons of members; the type of disqualification or failure to qualify; whether a member or associated person has been the subject of a previous approval and the terms and conditions thereof; and any other relevant factors; and

(3) delegate any of its functions and authority under this subsection (d) to appropriate committees of the Corporation or to Corporation staff members.

(e) An application filed under subsection (d) hereof shall not foreclose any action which the Board of Governors is authorized to take under subsection (c) hereof until approval has been granted.

(f) Approval by the Board of Governors of an application made under subsection (d) shall be subject to whatever further action the Commission may take pursuant to authority granted to the Commission under the Act.

Definition of Disqualification

Sec. 4. A person is subject to a "disqualification" with respect to membership, or association with a member, if such person:

Commission and Self-Regulatory Organization Disciplinary Sanctions

(a) has been and is expelled or suspended from membership or participation in, or barred or suspended from being associated with a member of, any self-regulatory organization[,] , contract market designated pursuant to Section 5 of the Commodity Exchange Act, or futures association, registered under Section 17 of such Act, or has been denied trading privileges on any such contract market.

(b) is subject to an order of the Commission or other appropriate regulatory agency denying, suspending for a period not exceeding twelve months, or revoking its registration as a broker, dealer, [or] municipal securities dealer (including a bank or department or division of a bank), or government securities broker or dealer, or barring or suspending him from being associated with a broker, dealer, [or] municipal securities dealer (including a bank or department or division of a bank), or government securities broker or dealer[;] , or is subject to an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act;

(c) by his conduct while associated with a broker, dealer, [or] municipal securities dealer (including a bank or department or division of a bank), or government securities broker or dealer, or while associated with an entity or person required to be registered under the Commodity Exchange Act has been found to be a cause of any effective suspension, expulsion or order of the character described in subsections (a) or (b) of this Section, and in entering such a suspension, expulsion, or order, the Commission, an appropriate regulatory agency, or self-regulatory organization shall have jurisdiction to find whether or not any person was a cause thereof;
or

(d) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person described in subsections (a), (b), or (c) of this Section.

Misstatements

(e) has willfully made or caused to be made in any application for membership in [the Corporation] a self-regulatory organization or to become associated with a member of [the Corporation] a self-regulatory organization, or in any report required to be filed with [the Corporation] a self-regulatory organization, or in any proceeding before [the Corporation] a self-regulatory organization, any

statement which was at the time, and in light of the circumstances under which it was made, false, or misleading with respect to any material fact, or has omitted to state in any such application, report or proceeding any material fact which is required to be stated therein;

Convictions

(f) has been convicted within ten years preceding the filing of any application for membership in the Corporation, or to become associated with a member of the Corporation, or at any time thereafter, of any felony or misdemeanor which;

(1) involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense;

(2) arises out of the conduct of the business of a broker, dealer, municipal securities dealer or government securities broker or dealer, investment adviser, bank insurance company, [or] fiduciary, or any entity or person required to be registered under the Commodity Exchange Act;

(3) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; or

(4) involves the violation of Sections 152, 1341, 1342, or 1343 or Chapters 25 or 47 of Title 18, United States Code; or

Injunctions

(g) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, [or] entity or person required to be registered under the Commodity Exchange Act, municipal securities dealer (including a bank or department or division of a bank) or government securities broker or dealer, or as an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

ARTICLE III

Membership

Application for Membership

Sec. 1. (a) Application for membership in the Corporation, properly signed by the applicant, shall be made to the Corporation, on the form to be prescribed by the Corporation, and shall contain:

(1) an acceptance of and an agreement to abide by, comply with, and adhere to, all the provisions, conditions, and covenants of the Certificate of

Incorporation, the By-Laws, the rules and regulations of the Corporation as they are or may from time to time be adopted, changed or amended, and all rulings, orders, directions and decisions of, and sanctions imposed by, the Board of Governors or any duly authorized committee, the provisions of the federal securities laws, including the rules and regulations adopted thereunder, [and] including the rules of the Municipal Securities Rulemaking Board[,] and the Treasury Department, provided, however, that such an agreement shall not be construed as a waiver by the applicant of any right to appeal as provided in the Act;

(2) an agreement to pay such dues, assessments, and other charges in the manner and amount as shall from time to time be fixed by the Board of Governors pursuant to these By-Laws;

(3) an agreement that neither the Corporation, nor any officer or employee thereof, nor any member of the Board of Governors or of any district or other committee, shall be liable, except for willful malfeasance, to the applicant or to any member of the Corporation or to any other person, for any action taken by such officer or member of the Board of Governors or of any district or other committee, in his official capacity, or by any employee of the Corporation while acting within the scope of his employment or under instruction of any officer, board, or committee of the Corporation, in connection with the administration or enforcement of any of the provisions of the rules of the Corporation as they are or may from time to time be adopted, or amended, or any ruling, order, directive, decision of, or penalty imposed by, the Board of Governors or any duly authorized committee, the provisions of the federal securities laws, including the rules and regulations adopted thereunder, including the rules of the Municipal Securities Rulemaking Board and the Treasury Department; and

(4) such other reasonable information with respect to the applicant as the Board of Governors may require.

(b) Any application received by the Corporation shall be referred to the District Committee of the district in which the applicant has his principal place of business, and if a majority of the members of such District Committee determine that the applicant has satisfied all of the admission requirements of the By-Laws, it shall recommend the applicant's admission to membership and promptly notify the Secretary of the Corporation of such recommendation.

(c) If a majority of the members of such District Committee determine that the applicant fails to satisfy all of the admission requirements of the By-Laws, it shall promptly notify the Secretary of the Corporation who shall thereafter take appropriate action as of the date when posted to the membership roll.

(d) Each member shall ensure that its membership application with the Corporation is kept current at all times by supplementary amendments to the original application.

Similarity of Membership Names

Sec. 2. No change.

Executive Representative

Sec. 3. No change.

Membership Roll

Sec. 4. No change.

Resignation of Members

Sec. 5. No change.

Transfer and Termination of Membership

Sec. 6. No change.

Registration of Branch Offices

Sec. 7. No change.

Vote of Branch Offices

Sec. 8. No change.

District Committees' Right to Classify Branches

Sec. 9. No change.

ARTICLE IV

Registered Representatives and Associated Persons

Qualification Requirements

Sec. 1. No member shall permit any person associated with such member to engage in the investment banking or securities business unless the member determines that such person has complied with the applicable provisions under Article II of the By-Laws.

Application for Registration

Sec. 2. (a) Application by any person for registration with the Corporation, properly signed by the applicant, shall be made to the Corporation, on the form to be prescribed by the Board of Governors and shall contain:

(1) an acceptance of and an agreement to comply with all the provisions of the rules of the Corporation as they are or may from time to time be adopted or amended, all rulings, orders, directions and decisions of, and penalties imposed by, the Board of Governors or any duly authorized committee, the provisions of the federal securities laws, including the rules and regulations adopted thereunder[, and] including the rules of the Municipal Securities Rulemaking Board and the Treasury Department, provided, however, that such an agreement shall not be construed as a waiver by the applicant of any right to appeal as provided in the Act;

(2) an agreement that neither the Corporation, nor any officer or employee thereof, nor any member of the Board of Governors or of any District or other Committee, shall be liable except for willful malfeasance, to the applicant or to any

member of the Corporation or to any other person, for any action taken by such officer, member of the Board of Governors or of any District or other Committee in his official capacity, or by any employee of the Corporation while acting within the scope of his employment, or under instruction of any officer, board or committee of the Corporation, in connection with the administration or enforcement of any of the provisions of the By-Laws, any rules of the Corporation as they are or may from time to time be adopted or amended, any ruling, order, direction, decision of, or penalty imposed by, the Board of Governors or any duly authorized committee, the provisions of the federal securities laws, including the rules and regulations adopted thereunder, [or] the rules of the Municipal Securities Rulemaking Board or the rules of the Treasury Department; and

(3) such other reasonable information with respect to the applicant as the Corporation may require.

(b) The Corporation shall not approve an application for registration of any person who is not eligible to be an associated person of a member under the provisions of Section 3(b) of Article II of these By-Laws.

(c) Every application for registration filed with the Corporation shall be kept current at all times by supplementary amendments to the original application.

Notification by Member to Corporation of Termination

Sec. 3. Following the termination of the association with a member of a person who is registered with it, such member shall promptly, but in no event later than thirty (30) calendar days after such termination, give written notice to the Association on a form designated by the Board of Governors of the termination of such association. A member who does not submit such notification in writing within the time period prescribed shall be assessed a late filing fee as specified by the Board of Governors. Termination of registration of such person associated with a member shall not take effect so long as any complaint or action is pending against a member and to which complaint or action such person associated with a member is also a respondent, or so long as any complaint or action is pending against such person individually or so long as any examination of the member or person associated with such member is in process. The Corporation, however, may in its discretion declare the termination effective at any time.

Retention of Jurisdiction

Sec. 4. A person whose association with a member has been terminated and is no longer associated with any member of the Corporation shall continue to be subject to the filing of a complaint under the Code of Procedure based upon conduct which commenced prior to the termination, but any such complaint shall be filed within one (1) year after the effective date of termination of registration pursuant to Section 3 above or, in the case of an unregistered person, within one (1) year after the date upon which such person ceased to be associated with the member.

ARTICLE V

Affiliates

No change.

ARTICLE VI

Dues, Assessments and Other Charges

No change.

ARTICLE VII

Board of Governors

Powers and Authority of Board of Governors

Sec. 1. (a) The Board of Governors shall be the governing body of the Corporation and, except as otherwise provided by these By-Laws, shall be vested with all powers necessary for the management and administration of the affairs of the Corporation and the promotion of the Corporation's welfare, objects and purposes. In the exercise of such powers, the Board of Governors shall have the authority to:

(1) adopt for submission to the membership, as hereinafter provided, such By-Laws, Rules of Fair Practice and changes or additions thereto as it deems necessary or appropriate;

(2) make such regulations, issue such orders, resolutions, interpretations, including interpretations of the Rules of Fair Practice, and directions, and make such decisions as it deems necessary or appropriate;

(3) prescribe a code of arbitration procedure providing for the required or voluntary arbitration of controversies between members and between members and customers or others as it shall deem necessary or appropriate and neither the adoption nor any amendments to the code need be submitted to the membership for approval and the code and any amendments thereto shall become effective as the Board of Governors may prescribe;

(4) establish rules and procedures to be followed by members in connection with the distribution of securities issued by members and affiliates thereof, and neither the adoption nor any amendments to such rules and procedures need be submitted to the membership for approval and such rules and procedures and any amendments thereto shall become effective as the Board of Governors may prescribe;

(5) require all over-the-counter transactions in securities between members, other than transactions in exempted securities, to be cleared and settled through the facilities of a clearing agency registered with the Commission pursuant to the Act, which clears and settles such over-the-counter transactions in securities;

(6) organize and operate automated systems to provide qualified subscribers with securities information and automated services. The systems may be organized and operated by a division or subsidiary company of the Corporation or by one or more independent firms under contract with the Corporation as the Board of Governors may deem necessary or appropriate. The Board of Governors may adopt rules of such automated systems, establish reasonable qualifications and classifications for members and other subscribers, provide qualification standards for

securities included in such systems, require members to report promptly information in connection with securities included in such systems, require members to report promptly information in connection with securities included in such systems, and establish charges to be collected from subscribers and others. The Board of Governors shall have power to adopt, amend, supplement or modify such rules, qualifications, classifications, standards and charges from time to time without recourse to the membership for approval, and such rules, qualifications, classifications, standards and charges shall become effective as the Board of Governors may prescribe;

(7) engage in any activities or conduct necessary or appropriate to carry out the Corporation's purposes under its Certificate of Incorporation and the federal securities laws; and

(8) (a) adopt for submission to the membership such rules as the Board of Governors deems appropriate to implement the provisions of the Act as amended by the Government Securities Act of 1986 and the rules and regulations promulgated thereunder, and (b) make such regulations, issue such orders, resolutions, interpretations, including interpretations of the rules adopted pursuant to this Section, and directions, and make such decisions as it deems necessary or appropriate.

(b) In the event of the refusal, failure, neglect or inability of any member of the Board of Governors to discharge his duties, or for any cause affecting the best interests of the Corporation the sufficiency of which the Board of Governors shall be the sole judge, the Board shall have the power, by the affirmative vote of two-thirds of the Governors then in office, to remove such member and declare his position vacant and that it shall be filled in accordance with the provisions of Section 6 of this Article.

Authority to Suspend for Failure to Submit Required Information

Sec. 2. No change.

Composition of Board

Sec. 3. No change.

Term of Office of Governors

Sec. 4. No change.

Succession to Office

Sec. 5. No change.

Election of Board Members

Sec. 6. No change.

Filling of Vacancies on Board

Sec. 7. No change.

Meetings of Board

Sec. 8. No change.

Offices of Corporation

Sec. 9. No change.

ARTICLE VIII

District Committees

No change.

ARTICLE IX

Nominating Committees

No change.

ARTICLE X

Officers and Employees

No change.

ARTICLE XI

Committees

No change.

ARTICLE XII

Rules of Fair Practice

No change.

ARTICLE XIII

Disciplinary Proceedings

No change.

ARTICLE XIV

Power of Board to Prescribe Sanctions

The Board of Governors is hereby authorized to prescribe appropriate sanctions applicable to members, including censure, fine, suspension or expulsion from membership, suspension or barring from being associated with all members, limitation of activities, functions and operations of a member, or any other fitting sanction, and to prescribe appropriate sanctions applicable to persons associated with members, including censure, fine, suspension or revocation of registration, if any, suspension or barring a person associated with a member from being associated with all members, limitation of activities, functions and operations of a person associated with a member, or any other fitting sanction, for:

(a) breach by a member or a person associated with a member of any covenant with the Corporation or its members;

(b) violation by a member or a person associated with a member of any of the terms, conditions, covenants, and provisions of the rules of the Corporation, the federal securities laws, including the rules and regulations adopted thereunder, [and] the rules of the Municipal Securities Rulemaking Board and the rules of the Treasury Department;

(c) failure by a member or person associated with a member to submit a dispute for arbitration under the Code of Arbitration Procedure ("Code") as required by the Code, or to fail to appear or to produce any document in their possession or control as directed pursuant to provisions of the Code, or to fail to honor an award of arbitrators properly rendered pursuant to the Code where a timely motion has not been made to vacate or modify such award pursuant to applicable law;

(d) refusal by a member or person associated with a member to abide by an official ruling of the Board of Governors or Uniform Practice Committee acting within its appropriate authority, with respect to any transaction which is subject to the Uniform Practice Code; or

(e) failure by a member or a person associated with a member to adhere to any ruling, order, direction or decision of, or to pay any penalty, fine or costs, imposed by, the Board of Governors or any District Business Conduct Committee.

ARTICLE XV

Uniform Practice Code

No change.

ARTICLE XVI

Limitation of Powers

Prohibitions

Sec. 1. Under no circumstances shall the Board of Governors or any officer, employee or member of the Corporation have power to:

(a) make any donation or contribution from the funds of the Corporation or to commit the Corporation for the payment of any donations or contributions for political or charitable purposes; or

(b) use the name or facilities of the Corporation in aid of any political party or candidate for any public office.

Use of Name of Corporation by Members

Sec. 2. No member shall use the name of the Corporation except to the extent that may be authorized by the Board of Governors.

Unauthorized Expenditures

Sec. 3. No officer, employee, member of the Board of Governors or of any District or other Committee, shall have any power to incur or contract any liability on behalf of the Corporation not authorized by the Board of Governors. The Board may delegate to the President of the Corporation, or his delegate, such authority as it deems necessary to contract on behalf of the Corporation or to satisfy unanticipated liabilities during the period between Board meetings.

Conflicts of Interest

Sec. 4. No member of the Board of Governors or of any committee of the Corporation shall directly or indirectly participate in any adjudication of the interests of any party which would at the same time substantially affect his interest or the interests of any person in whom he is directly or indirectly interested. In any such case, the member shall disqualify himself or shall be disqualified by the Chairman of the Board or Committee.

Municipal Securities

Sec. 5. The provisions of the By-Laws conferring rulemaking authority upon the Board of Governors shall not be applicable to the municipal securities activities of members or persons associated with members to the extent that the application of such authority would be inconsistent with Section 15B of the Act.

Government Securities

Sec. 6. The provisions of the By-Laws governing qualifications of members and persons associated with members and conferring rulemaking authority upon the Board of Governors shall not be applicable to the government securities activities of members or persons associated with members to the extent that the application of such provisions or authority would be inconsistent with Section 15A(f) of the Act.

ARTICLE XVII

Procedure for Adopting Amendments to By-Laws

No change.

ARTICLE XVIII

Corporate Seal

No change.

ARTICLE XIX

Checks

No change.

ARTICLE XX

Annual Financial Statement

No change.

**PROPOSED AMENDMENTS TO SCHEDULE C
TO THE NASD BY-LAWS**

(New language is underlined.)

V

PERSONS EXEMPT FROM REGISTRATION

(1) The following persons associated with a member are not required to be registered with the Corporation:

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(d) persons associated with a member whose functions are related solely and exclusively to:

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(ii) transactions in exempted securities, except as provided in Part X hereof, or

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(Part X is new.)

X

**REGISTRATION OF GOVERNMENT SECURITIES PRINCIPALS
AND REPRESENTATIVES**

1. **Registration of Principals.** All persons associated with a member who are to function as government securities principals shall be registered as such with the Corporation.

(a) Definition of Government Securities Principal--Persons associated with a member who are:

(1) engaged in the management or supervision of the member's government securities business, including:

- (i) underwriting, trading or sales of government securities;
- (ii) financial advisory or consultant services for issuers in connection with the issuance of government securities;
- (iii) research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in (i) and (ii) above;
- (iv) activities other than those specifically mentioned that involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in (i) and (ii) above; or

(2) are responsible for supervision of:

- (i) the processing and clearance activities with respect to government securities; or
- (ii) the maintenance of records involving any of the activities described in (a)(1) above;

are designated as principals.

(b) Notification of Principal Status--A member shall promptly notify the Corporation of the assumption by an individual of principal status on the form designated by the Board of Governors accompanied by the applicable fees.

2. **Registration of Representatives.** All persons associated with a member who are to function as government securities representatives shall be registered as such with the Corporation.

(a) Definition of Representative--Persons associated with a member, including assistant officers other than principals, who are engaged in the government securities business for the member including:

- (i) underwriting, trading or sales of government securities;
- (ii) financial advisory or consultant services for issuers in connection with the issuance of government securities;
- (iii) research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in paragraphs (i) and (ii) above;

- (iv) activities other than those specifically mentioned that involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in paragraphs (i) and (ii) above;

are designated as representatives.

(b) Notification of Representative Status--A member shall promptly notify the Corporation of the assumption by an individual of representative status on the form designated by the Board of Governors accompanied by the applicable fees.

3. **Persons Exempt From Registration.** Persons associated with a member whose functions are exclusively clerical or ministerial are not required to register with the Corporation.

PROPOSED AMENDMENT TO NASD RULES OF FAIR PRACTICE

(New language is underlined.)

ARTICLE I

Adoption and Application

Applicability

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Sec. 5. (a) These applicability Rules of Fair Practice shall apply to all members and persons associated with a member, other than those members registered with the Securities and Exchange Commission solely under the provisions of Section 15C of the Act and persons associated with such members. Persons associated with a member shall have the same duties and obligations as a member under these Rules of Fair Practice.

(The remainder of Section 5 remains unchanged.)

PROPOSED NEW GOVERNMENT SECURITIES RULES

Adoption of Rules

Sec. 1. The following provisions are adopted pursuant to Article VII, Section 8 of the NASD By-Laws.

Applicability

Sec. 2. (a) These rules shall apply to the government securities business of all members and persons associated with a member in order to implement and enforce the provisions of the Securities Exchange Act of 1934 and the rules promulgated thereunder including the rules of the Treasury Department. The requirements of these rules are in addition to those contained in the Rules of Fair Practice for members that are subject to the provisions of the Rules of Fair Practice. Persons associated with a member shall have the same duties and obligations as a member under these rules.

(b) A member or person associated with a member, who has been expelled, cancelled, or revoked from membership or from registration or who has been barred from being associated with all members, shall cease to have any privileges of membership or registration. A member or person associated with a member who has been suspended from membership or registration shall also cease to have any privileges of membership or registration other than those under the Code of Procedure or insurance programs sponsored by the Corporation. In neither case shall such a member or person associated with a member be entitled to recover any admission fees, dues, assessments, or other charges paid to the Corporation.

(c) A member or person associated with a member who has been suspended from membership or from registration shall have all of the obligations imposed by the By-Laws, these rules, and other regulations of the Corporation.

Definitions in By-Laws and Rules of Fair Practice

Sec. 3. Unless the context otherwise requires, or unless defined in these rules, terms used in the rules and provisions hereby adopted, if defined in the By-Laws or Rules of Fair Practice shall have the meaning as defined therein.

Books and Records

Sec. 4.

Requirements

(a) Each member shall keep and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated thereunder and with the rules of this Association.

Information on accounts

(b) Each member shall maintain accounts of customers in such form and manner as to show the following information: name, address, and whether the customer is legally of age; signature of the registered representative introducing the accounts and signature of the member or the partner, officer, or manager accepting the account for the member. If the customer is associated with or employed by another member, this fact must be noted. In discretionary accounts, the member shall also record the age or approximate age and occupation of the customer as well as the signature of each person authorized to exercise discretion in such account.

Record of written complaints

(c) Each member shall keep and preserve either a separate file of all written complaints of customers and action taken by the member, if any, or a separate record of such complaints and a clear reference to the files containing the correspondence connected with such complaint.

"Complaint" defined

(d) A "complaint" shall be deemed to mean any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of those persons under the control of the member in connection with the solicitation or execution of any transaction or the disposition of securities or funds of that customer.

Supervision

Sec. 5.

Written procedures

(a) Each member shall establish, maintain, and enforce written procedures that will enable it to supervise properly the activities of each registered representative and associated person to ensure compliance with the provisions of the Securities Exchange Act of 1934, rules, regulations, and statements of policy promulgated thereunder including the rules of the Treasury Department, and with the applicable rules of this Association.

Responsibility of member

(b) Final responsibility for proper supervision shall rest with the member. The member shall designate a partner, officer, or manager to carry out the written supervisory procedures. A copy of such procedures shall be kept in each office of the member.

Eligibility investigated

(c) Each member shall have the responsibility and the duty to ascertain by investigation the absence of any statutory disqualification as that term is defined under Section 3(a)(29) or 15C(c) of the Securities Exchange Act of 1934 and that any application for registration by an associated person is complete and accurate.

**Regulation of Activities of Members Experiencing
Financial and/or Operational Difficulties**

Sec. 6. (a) Application--For the purposes of this rule, the term "member" shall be limited to any member of the Association that is not designated to another self-regulatory organization by the Securities and Exchange Commission for financial responsibility pursuant to Section 17 of the Securities Exchange Act of 1934 and Rule 17d-1 thereunder. Further, the term shall not be applicable to any member that is subject to Section 402.2(c) of the rules of the Treasury Department.

(b) A member, when so directed by the Association, shall not expand its business during any period in which:

(1) Any of the following conditions continue to exist, or have existed, for more than fifteen (15) consecutive business days:

(A) A firm's liquid capital is less than 150 percent of the total haircuts or such greater percentage thereof as may from time to time be prescribed by the Association.

(B) A firm's liquid capital is less than 150 percent of its minimum liquid capital requirement.

(C) The deduction of capital withdrawal including maturities of subordinated debt scheduled during the next six months would result in any one of the conditions described in (A) or (B) of this subparagraph (1).

(2) The Association restricts the member for any other financial or operational reason.

(c) A member, when so directed by the Association, shall forthwith reduce its business:

(1) To a point enabling its available capital to comply with the standards set forth in subparagraphs (b)(1)(A), (B), or (C) of this rule if any of the following conditions continue to exist, or have existed, for more than fifteen (15) consecutive business days:

(A) A firm's liquid capital is less than 125 percent of total haircuts or such greater percentage thereof as may from time to time be prescribed by the Association.

(B) A firm's liquid capital is less than 125 percent of its minimum liquid capital requirement.

(C) The deduction of capital withdrawal including maturities of subordinated debt scheduled during the next six months would result in any one of the conditions described in (A) or (B) of this subparagraph (1).

(2) As required by the Association when it restricts a member for any other financial or operational reason.

● ● ● Explanation of the Board of Governors

Restrictions on a Member's Activity

This explanation outlines and discusses some of the financial and operational deficiencies which could initiate actions under the rule. Subparagraphs (b)(2) and (c)(2) of the rule recognize that there are various unstated financial and operational reasons for which the Association may impose restrictions on a member so as to prohibit its expansion or to require a reduction in overall level of business. These provisions are deemed necessary in order to provide for the variety of situations and practices which do arise and, which if allowed to persist, could result in increased exposure to customers and to broker-dealers.

In the opinion of the Board of Governors, it would be impractical and unwise to attempt to identify and list all of the situations and practices that might lead to the imposition of restrictions or the types of remedial actions the Corporation may direct be taken because they are numerous and cannot be totally identified or specified with any degree of precision. The Board believes, however, that it would be helpful to members' understanding to list some of the other bases upon which the Corporation may conclude that a member is in or approaching financial difficulty.

(a) For purposes of subparagraphs (b)(2) and (c)(2) of the rule, a member may be considered to be in or approaching financial or operational difficulty in conducting its operations and therefore subject to restrictions if it is determined by the Corporation that any of the parameters specified therein are exceeded or one or more of the following conditions exist:

(1) The member has experienced significant reduction in excess liquid capital in the preceding month or in the three-month period immediately preceding such computation.

(2) The member has experienced a substantial change in the manner in which it processes its business which, in the view of the Corporation, increases the potential risk of loss to customers and members.

(3) The member's books and records are not maintained in accordance with the provisions of Section 404.2 of the Treasury Department rules.

(4) The member is not in compliance, or is unable to demonstrate compliance, with applicable capital requirements of Section 402 of the Treasury Department rules.

(5) The member is not in compliance, or is unable to demonstrate compliance, with Section 403.4 of the Treasury Department rules (Customer Protection--Reserve and Custody of Securities).

(6) The member is unable to clear and settle transactions promptly.

(7) The member's overall business operations are in such a condition, given the nature and kind of its business that, notwithstanding the

absence of any of the conditions enumerated in subparagraphs (1) through (6), a determination of financial or operational difficulty should be made.

(8) The member is registered as a Futures Commission Merchant and its net capital is less than required by Section 402.1(d) of the Treasury Department rules.

(b) If the Corporation determines that any of the conditions specified in subparagraph (a) of this Explanation exists, it may require that the member take appropriate action by effecting one or more of the following actions until such time as the Corporation determines they are no longer required:

- (1) Promptly pay all free credit balances to customers.
 - (2) Promptly effect delivery to customers of all fully paid securities in the member's possession or control.
 - (3) Introduce all or a portion of its business to another member on a fully disclosed basis.
 - (4) Reduce the size or modify the composition of its inventory.
 - (5) Postpone the opening of new branch offices or require the closing of one or more existing branch offices.
 - (6) Promptly cease making unsecured loans, advances, or other similar receivables, and, as necessary, collect all such loans, advances, or receivables where practicable.
 - (7) Accept no new customer accounts.
 - (8) Undertake an immediate audit by an independent public accountant at the member's expense.
 - (9) Restrict the payment of salaries or other sums to partners, officers, directors, shareholders, or associated persons of the member.
 - (10) Effect liquidating transactions only.
 - (11) Accept unsolicited customer orders only.
 - (12) File special financial and operating reports.
 - (13) Be subject to such other restrictions or take such other actions as the Corporation deems appropriate under the circumstances in the public interest and for the protection of members.
-

**Approval of Change in Exempt Status
Under SEC Rule 15c3-3**

Sec. 7. (a) Application—For the purposes of this rule, the term "member" shall be limited to any member of the Association that is not designated to another self-regulatory organization by the Securities and Exchange Commission for financial responsibility pursuant to Section 17 of the Securities Exchange Act of 1934 and Rule 17d-1 thereunder. Further, the term shall not be applicable to any member that is subject to Section 402.2(c) of the rules of the Treasury Department.

(b) A member operating pursuant to any exemptive provision as contained in subparagraph (k) of SEC Rule 15c3-3 under the Securities Exchange Act of 1934 (Rule 15c3-3), shall not change its method of doing business in a manner that will change its exemptive status from that governed by subparagraph (k)(1) or (k)(2)(b) to that governed by subparagraph (k)(2)(a); or from subparagraph (k)(1), (k)(2)(a), or (k)(2)(b) to a fully computing firm that is subject to all provisions of Rule 15c3-3; or commence operations that will disqualify it for continued exemption under Rule 15c3-3 without first having obtained the prior written approval of the Association.

(c) In making the determination as to whether to approve or to deny in whole or in part an application made pursuant to subsection (b), the Association staff shall consider, among other things, the type of business in which the member is engaged, the training, experience, and qualifications of persons associated with the member, the member's procedures for safeguarding customer funds and securities, the member's overall financial and operational condition and any other information deemed relevant in the particular circumstances and the time these measures would remain in effect.

**Availability to Customers of Certificate, By-Laws, Rules,
and Code of Procedure**

Sec. 8. Every member of the Corporation shall keep in each office maintained by him, in the form to be supplied by the Board of Governors, a copy of the Certificate of Incorporation, By-Laws, Government Securities Rules, and Code of Procedure of the Corporation, and of all additions and amendments from time to time made thereto, and of all interpretative rulings made by the Board of Governors, all of which shall be available for the examination of any customer who makes requests therefor.

Complaints

Sec. 9.

Complaints by public against members

(a) Any person feeling aggrieved by any act, practice, or omission of any member or any person associated with a member of the Corporation, which such person believes to be in violation of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules, may, on the form to be supplied by the Board of Governors, file a complaint against such member or such persons associated with a member

in regard thereto with any District Business Conduct Committee of the Corporation, and any such complaint shall be handled in accordance with the Code of Procedure of the Corporation.

Complaints by District Business Conduct Committees

(b) Any District Business Conduct Committee which, on information and belief, is of the opinion that any act, practice, or omission of any member of the Corporation or any person associated with a member is in violation of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules may, on the form to be supplied by the Board of Governors, file a complaint against such member or such person associated with a member in regard thereto with itself or with any other District Business Conduct Committee of the Corporation, as the necessities of the complaint may require, and any such complaint shall be handled in accordance with the Code of Procedure and in the same manner as if it had been filed by an individual or member.

Complaints by the Board of Governors

(c) The Board of Governors shall have authority, when on the basis of information and belief, it is of the opinion that any act, practice, or omission of any member of the Corporation or of any person associated with a member is in violation of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules, to file a complaint against such member or such person associated with a member in respect thereto or to instruct any District Business Conduct Committee to do so, and any such complaint shall be handled in accordance with the Code of Procedure.

Reports and Inspection of Books for Purpose of Investigating Complaints

Sec. 10. For the purpose of any investigation, or determination as to filing of a complaint, or any hearing of any complaint against any member of the Corporation or any person associated with a member made or held in accordance with the Code of Procedure, any District Business Conduct Committee, or the Board of Governors, or any duly authorized member or members of any such Committees or Board, or any duly authorized member or members of any such Committees or Board, or any duly authorized agent or agents of any such Committee or Board shall have the right to:

- (1) require any member of the Corporation or person associated with a member to report orally or in writing with regard to any matter involved in any such investigation or hearing; and
- (2) to investigate the books, records and accounts of any such member with relation to any matter involved in any such investigation or hearing.

No member or person associated with a member shall refuse to make any report as required in this Section, or refuse to permit any inspection of books, records, and accounts as may be validly called for under this Section.

● ● ● **Resolution of the Board of Governors**

**Suspension of Members for Failure to Furnish Information
Duly Requested**

1. The President is hereby directed and authorized to notify members of the Corporation that fail to provide information with respect to their business practices, and/or that fail to keep membership applications and supporting documents current, and/or that fail to furnish such other information or reports or other material or data duly requested by the Corporation pursuant to the powers duly vested in it by its Certificate of Incorporation, By-Laws, and such other duly authorized resolutions and directives as are necessary in the conduct of the business of the Corporation, and that the continued failure to furnish duly requested information, reports, data, or other material, constitutes grounds for suspension from membership.

2. After fifteen (15) days' notice in writing thereof and continued failure to furnish the information, reports, data, or other material as described above in paragraph 1, the President is hereby directed and authorized to suspend the membership of any such member on behalf of the Board of Governors and to cause notification thereof in the next following membership supplement, to the effect that the membership has been suspended for failure to furnish such duly requested information.

3. Prior to such notice in writing to the member, the Executive Committee of the Board of Governors shall be notified in writing of such contemplated action by the President.

4. The President shall advise the member concerned, in writing, of the suspension.

Penalties for Violation of the Rules

Sec. 11. Any District Business Conduct Committee, or the Board of Governors, in the administration and enforcement of the Securities Exchange Act of 1934, the rules and regulations thereunder including the rules of the Treasury Department or these Government Securities rules, and after compliance with the Code of Procedure, may:

- (1) censure any member or person associated with a member; and/or
- (2) impose a fine not in excess of Fifteen Thousand Dollars (\$15,000.00) upon any member or person associated with a member; and/or
- (3) suspend the membership of any member or suspend the registration of a person associated with a member, if any, for a definite period; and/or
- (4) expel any member or revoke the registration of any person associated with a member, if any; and/or

- (5) suspend or bar a member or person associated with a member from association with all members; or
- (6) impose any other fitting penalty deemed appropriate under the circumstances, for each of such provisions by a member or person associated with a member or for any neglect or refusal to comply with any orders, directions, or decisions issued by any District Business Conduct Committee or by the Board of Governors in the enforcement of these rules, including any interpretation made by the Board of Governors, as any such Committee or Board, in its discretion, may deem to be just;

provided, however, that no such penalty imposed by any District Business Conduct Committee shall take effect until the period for appeal therefrom or review has expired, as provided in Article III, Section 1 of the Code of Procedure; and provided, further, that all parties to any proceeding resulting in a sanction shall be deemed to have assented to or to have acquiesced in the imposition of such penalty unless any party aggrieved thereby shall have made application to the Board of Governors for review pursuant to the Code of Procedure, within fifteen (15) days after the date of such notice.

Payment of Fines or Costs

Sec. 12. All fines imposed pursuant to Section 11 of these rules shall be paid to the Treasurer of the Corporation and shall be used for the general corporate purposes. Any member that fails promptly to pay any fine imposed pursuant to Section 11 of these rules, or any costs imposed pursuant to Section 11 of these rules, or any costs imposed pursuant to Section 13 of these rules after such fine or costs have become finally due and payable, may after seven (7) days' notice in writing be summarily suspended or expelled from membership in the Corporation. A member may also be summarily suspended or expelled from membership in the Corporation if the member fails to immediately terminate the association of any person who fails to pay promptly any fine imposed pursuant to Section 11 of these rules or any costs imposed pursuant to Section 13 of these rules after such fine or costs have become finally due and payable after seven (7) days' notice in writing. The registration of a person associated with a member, if any, may be summarily revoked if such person fails to pay promptly any fine imposed pursuant to Section 11 of these rules, or any costs pursuant to Section 13 of these rules after such fine or costs have become finally due and payable after seven (7) days' notice in writing.

Cost of Proceedings

Sec. 13. Any member or person associated with such member disciplined pursuant to Section 11 of these rules shall bear such part of the costs of the proceedings as the District Business Conduct Committee or the Board of Governors deems fair and appropriate in the circumstances.

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 87-54

August 13, 1987

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: NASDAQ National Market System Grows to 3,018 Securities With 8 Additions on August 18, 1987

On Tuesday, August 18, 1987, the following 8 issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 3,018.

Symbol*	Company	Location
APAS	American Passage Marketing Corporation	Seattle, WA
CNMD	CONMED Corporation	Utica, NY
CHEY	Cheyenne Software, Inc.	Roslyn, NY
CSOF	Corporate Software Incorporated	Westwood, MA
DETC	Detection Systems, Inc.	Fairport, NY
DGIC	Donegal Group, Inc.	Marietta, PA
SCFM	Scanforms, Inc.	Bristol, PA
SPMD	Spectramed, Inc.	Newport Beach, CA

The following issues have filed for inclusion in NASDAQ/NMS upon effectiveness of their registration statements with the SEC or other appropriate regulatory authority. Their inclusion may commence prior to the next regularly scheduled phase-in date.

* NASDAQ symbols are proprietary to the National Association of Securities Dealers, Inc.

NASDAQ/NMS Pending Additions

Symbol*	Company	Location
ACMAV	ACMAT Corporation (Cl A) (WI)	East Hartford, CT
APOS	Advanced Polymer Systems, Inc.	Redwood City, CA
ATKM	Atek Metals Center, Inc.	Cincinnati, OH
CRLDO	Crossland Savings, F.S.B. (Ser B Pfd)	Brooklyn, NY
ETEX	Eastex Energy, Inc.	Houston, TX
ENTC	Entronics Corporation	Dallas, TX
HRDG	Harding Associates, Inc.	Novato, CA
HARL	Harleysville Savings Association	Harleysville, PA
HRLD	Harold's Stores, Inc.	Norman, OK
INCL	Intellicall, Inc.	Carrollton, TX
JEPS	Jepson Corporation (The)	Elmhurst, IL
MCAWA	McCaw Cellular Communications, Inc. (Cl A)	Kirkland, WA
MFIG	Morsemere Financial Group, Inc.	Englewood Cliffs, NJ
PSPA	Pennview Savings Association	Souderton, PA
SGHB	Sag Harbor Savings Bank	Sag Harbor, NY
TDAT	Teradata Corporation	Los Angeles, CA
TLMD	Telemundo Group, Inc.	New York, NY
VLCM	Valcom, Inc.	Omaha, NE

The registration statements of the following issues have been declared effective by the SEC or other appropriate regulatory authority, and commenced trading in NASDAQ/NMS since July 27, 1987:

NASDAQ/NMS Interim Additions

Symbol*	Security	Date of Entry
ECLAY	English China Clays, Plc.	7/29/87
PFPF	Price Pfister, Inc.	7/29/87
PNET	ProNet, Inc.	7/29/87
ONBK	Onondaga Savings Bank	7/30/87
NJSB	New Jersey Savings Bank	8/04/87
RBNH	Rockingham Bancorp	8/04/87
USBC	United Building Services Corporation of Delaware	8/04/87
MTWO	Melamine Chemicals, Inc.	8/06/87
INTCL	Intel Corporation (1988 Wts)	8/07/87

The following changes to the list of NASDAQ/NMS securities occurred since July 27, 1987:

NASDAQ/NMS Symbol* and/or Name Changes

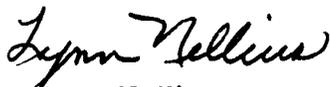
New/Old Symbol*	New/Old Security	Date of Change
GLBC/GLFS	Great Lakes Bancorp/ Great Lakes Bancorp	7/29/87
IFSIA/IFSIA	Interface, Inc. (CI A)/ Interface Flooring Systems, Inc. (CI A)	7/31/87
DYAN/FAAA	Dyansen Corporation/Fine Arts Acquisitions, Ltd.	8/04/87
DYANW/FAAAW	Dyansen Corporation (Wts)/ Fine Arts Acquisitions, Ltd. (Wts)	8/04/87
REGB/MSBK	Regional Bancorp, Inc./Medford Savings Bank	8/04/87

NASDAQ/NMS Deletions

Symbol*	Security	Date
SCOAP	Hills Stores Company (Pfd)	7/27/87
HFBF	Home Federal Savings Bank Florida, F.S.B.	7/27/87
AMRE	AMRE, Inc.	7/28/87
CLEV	Clevite Industries, Inc.	7/28/87
CLEVW	Clevite Industries, Inc. (Wts)	7/28/87
MTBC	Metrobank Federal Savings Bank	7/28/87
ZBSTQ	ZZZZ Best Company, Inc.	7/28/87
ZBSWQ	ZZZZ Best Company, Inc. (Wts)	7/28/87
FSBF	First Savings Bank of Florida, F.S.B.	7/31/87
PMCO	Pan American Mortgage Corporation	8/03/87
CMRK	Caremark, Inc.	8/04/87
MODX	Modulaire Industries	8/04/87
BYOU	Bayou Resources, Inc.	8/05/87
SITVY	Southbrook International Television Company, Plc.	8/07/87

Questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Leon Bastien, Assistant Director, NASD Market Surveillance, at (202) 728-8192.

Sincerely,


Lynn Nellius
Secretary



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 87-55

August 14, 1987

TO: All NASD Members and Other Interested Persons
RE: Amendments to NASD Code of Arbitration Procedure Effective July 1, 1987

EXECUTIVE SUMMARY

The Securities and Exchange Commission declared effective, on July 1, 1987, amendments to Section 43 of the NASD Code of Arbitration Procedure (Code) and the Board of Governors' Resolution titled "Failure to Act under Provisions of the Code of Arbitration Procedure" (Resolution).

Section 43 of the Code sets forth a schedule of fees to be deposited by claimants with the NASD at the initiation of an arbitration proceeding and establishes fees charged to the parties at the conclusion of the arbitration proceeding for use of the arbitration facility. The amendment to Section 43 of the Code conforms it to changes in the securities industry's Uniform Code of Arbitration regarding the schedule of fees to be deposited by parties in connection with arbitrations in self-regulatory organizations.

The Resolution requires NASD members and associated persons to honor any properly rendered arbitration award, absent a timely motion to vacate or modify the award. The amendment to the Resolution provides that all arbitration awards must be honored by a cash payment to the prevailing party in the exact dollar amount of the award and specifically prohibits crediting an account of the prevailing party with the amount of the award. The amendment also requires the losing party to pay the award upon its receipt, or within such time as may be set forth in the award.

The texts of these amendments are attached.

SUMMARY OF AMENDMENTS

Increase in Filing Fees

The amendments to the Code conform it to recent amendments to the Uniform Code of Arbitration (Uniform Code) approved by the Securities Industry Conference on Arbitration (SICA). The Uniform Code, as implemented by the various self-regulatory organizations, established a uniform system of arbitration procedures throughout the securities industry.

The amendment to Section 43 only affects cases where the amount in controversy exceeds \$10,000. The amendment permits the NASD to pass on to users of the arbitration facility a larger share of the cost while maintaining a fee schedule that makes arbitration affordable to the public. In addition, the amendment reduces from \$500 to \$400 the deposit required for claims between \$20,000 and \$50,000, making the filing fee less burdensome. The amendment places a higher fee -- \$1,000 -- on claims exceeding \$500,000 because claims in this category usually require multiple hearing sessions lasting more than one day and are administratively more expensive to conduct. Even with this fee increase, however, much of the cost of the arbitration facility will continue to be subsidized by the NASD.

For purposes of Section 43(b), a "session" is defined as a meeting of presiding arbitrators and parties that lasts at least four consecutive hours.

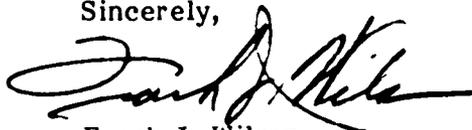
Manner and Time of Payment of Awards

The amendment to the Resolution clarifies the NASD's position that arbitration awards are to be paid on a timely basis and in cash, rather than by offsetting the award against other monies owed to the prevailing party.

* * * * *

Questions regarding this notice may be directed to either Deborah Masucci, NASD Director of Arbitration, at (212) 839-6251, or Eugene Bleier, NASD Office of General Counsel, at (202) 728-8287.

Sincerely,



Frank J. Wilson
Executive Vice President
Legal and Compliance

Attachments

AMENDMENTS TO CODE OF ARBITRATION PROCEDURE*

Schedule of Fees

Sec. 43. (a) At the time of filing a Submission Agreement, a Claimant shall deposit with the Association the amount indicated below unless such deposit is specifically waived by the Director of Arbitration.

Amount in Dispute (Exclusive of interest and expenses)	Deposit
\$1,000 or less	\$ 15
Above \$1,000 but not exceeding \$2,500	\$ 25
Above \$2,500 but not exceeding \$5,000	\$ 100
Above \$5,000 but not exceeding \$10,000	\$ 200
Above \$10,000 but not exceeding [\$20,000] <u>\$50,000</u>	[\$300] <u>\$400</u>
Above [\$20,000] <u>\$50,000</u> but not exceeding \$100,000	\$500
Above \$100,000 <u>but not exceeding \$500,000</u>	\$750
<u>Above \$500,000</u>	<u>\$1,000</u>

Where the amount in dispute is \$10,000 or less, no additional deposits shall be required despite the number of sessions. Where the amount in dispute is above \$10,000 and multiple sessions are required, the arbitrators may require any of the parties to make additional deposits for each additional session. In no event shall the aggregate amount deposited per session exceed the amount of the initial deposit as set forth in the above schedule.

(b) The arbitrators, in their awards, may determine the amount chargeable to the parties as forum fees (fees) and shall determine by whom such fees shall be borne. Where the amount in dispute is \$10,000 or less, total fees to the parties shall not exceed the amount deposited. Where the amount in dispute is above \$10,000 but does not exceed [~~\$20,000~~] \$50,000, the maximum fee shall be [~~\$300~~] \$400 per session. Where the amount in dispute is above [~~\$20,000~~] \$50,000 but does not exceed \$100,000, the maximum fee shall be \$500 per session. Where the amount in dispute is above \$100,000 but does not exceed \$500,000, the maximum fee shall be \$750 per session. Where the amount in dispute is above \$500,000, the maximum fee shall be \$1,000 per session. In no event shall the fees assessed by the arbitrators exceed [~~\$750~~] \$1,000 per session. Amounts deposited by a party shall be applied against fees, if any. If the fees are not assessed against a party who had made a deposit, the deposit will be refunded.

* New language is underlined; deleted language is bracketed.

(c) If the dispute, claim or controversy does not involve or disclose a money claim, the amount to be deposited by the Claimant shall be \$100, or such amount as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed [~~\$750~~] \$1,000.

(Subsections (d), (e), and (f) remain unchanged.)

* * * * *

● ● ● Resolution of the Board of Governors _____

**Failure to Act Under Provisions of the
Code of Arbitration Procedure**

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Article III, Section 1 of the Rules of Fair Practice for a member or a person associated with a member to fail to submit a dispute for arbitration under the Code of Arbitration Procedure as required by that Code, or to fail to appear or to produce any document in his possession or control as directed pursuant to provisions of the Code of Arbitration Procedure, or to fail to honor an award of arbitrators, properly rendered pursuant to the Code of Arbitration Procedure where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

All awards shall be honored by a cash payment to the prevailing party of the exact dollar amount stated in the award. Awards may not be honored by crediting the prevailing party's account with the dollar amount of the award, unless authorized by the express terms of the award or consented to in writing by the parties. Awards shall be honored upon receipt thereof, or within such other time period as may be prescribed by the award.

Action by members requiring associated persons to waive the arbitration of disputes contrary to the provisions of the Code of Arbitration Procedure shall constitute conduct that is inconsistent with just and equitable principles of trade and a violation of Article III, Section 1 of the Rules of Fair Practice.



National Association of Securities Dealers, Inc.
 1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 87-56

August 19, 1987

TO: All NASD Members and Municipal Securities Bank Dealers
 FROM: All Operations Personnel
 RE: Labor Day: Trade Date-Settlement Date Schedule

Securities markets and the NASDAQ System will be closed on Monday, September 7, 1987, in observance of Labor Day. "Regular way" transactions made on the business days noted below 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>	
August	28	September	4	September	9
	31		8		10
September	1		9		11
	2		10		14
	3		11		15
	4		14		16
	7	MARKETS CLOSED			—
	8		15		17

* Pursuant to Sections 220.8(b)(1) and (4) 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) business days of the date of purchase or, pursuant to Section 220.8(d)(1), make application to extend the time period specified. The date by which members must take such action is shown in the column entitled "Regulation T Date."

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

Questions regarding the application of these settlement dates to a particular situation may be directed to the NASD Uniform Practice Department at (212) 839-6256.

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 87-57

August 27, 1987

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: NASDAQ National Market System Grows to 3,039 Securities With 23 Additions on September 1, 1987

On Tuesday, September 1, 1987, the following 23 issues are scheduled to join the NASDAQ National Market System, bringing the total number of issues in NASDAQ/NMS to 3,039:

Symbol*	Company	Location
APWRA	Applied Power, Inc. (Cl A)	Butler, WI
AUTO	AutoInfo, Inc.	Lake Success, NY
LABB	Beauty Labs, Inc.	Lake Success, NY
CISIF	C.I.S. Technologies, Inc.	Tulsa, OK
CELG	Celgene Corporation	Warren, NJ
CFIX	Chemfix Technologies, Inc.	Metairie, LA
CFIXW	Chemfix Technologies, Inc. (Wts)	Metairie, LA
CHCO	City Holding Company	Charleston, WV
POWR	Environmental Power Corporation	Boston, MA
FAST	Fastenal Company	Winona, MN
FESX	First Essex Bancorp, Inc.	Lawrence, MA
FNPC	First National Pennsylvania Corporation (The)	Erie, PA
LXXX	Lexington Group, Inc. (The)	New York, NY

* NASDAQ symbols are proprietary to the National Association of Securities Dealers, Inc.

MIDD	Middleby Corporation (The)	Morton Grove, IL
MNBC	Miners National Bancorp, Inc.	Pottsville, PA
PTMI	Precision Target Marketing, Inc.	Lake Success, NY
PTMIW	Precision Target Marketing, Inc. (Wts)	Lake Success, NY
PBKC	Premier Bankshares Corporation	Tazewell, VA
SNLFA	S.N.L. Financial Corporation (C1 A)	Salt Lake City, UT
SFGI	Security Financial Group, Inc.	St. Cloud, MN
TRCO	Trico Products Corporation	Buffalo, NY
UNSA	United Savings and Loan Association	Greenwood, SC
VLABW	Vipont Pharmaceutical, Inc. (Wts)	Fort Collins, CO

The following issues have filed for inclusion in NASDAQ/NMS upon effectiveness of their registration statements with the SEC or other appropriate regulatory authority. Their inclusion may commence prior to the next regularly scheduled phase-in date.

NASDAQ/NMS Pending Additions

Symbol*	Company Name	Location
CBAM	Cambrex Corporation	Bayonne, NJ
CSFCB	Citizens Savings Financial Corporation (C1 B)	Miami, FL
ETCO	Earth Technology Corporation (USA) (The)	Long Beach, CA
IMKTA	Ingles Markets, Incorporated (C1 A)	Asheville, NC
LABL	Multi-Color Corporation	Cincinnati, OH
JMPC	Peters (J. M.) Company, Inc.	Newport Beach, CA
PBKS	Provident Bankshares Corporation	Baltimore, MD
WSGI	Williams Service Group, Inc.	Stone Mountain, GA

The registration statements of the following issues have been declared effective by the SEC or other appropriate regulatory authority, and commenced trading in NASDAQ/NMS since August 7, 1987:

NASDAQ/NMS Interim Additions

Symbol*	Security	Date of Entry
TDAT	Teradata Corporation	08/11/87
XSCR	Xscribe Corporation	08/11/87

Symbol*	Security	Date of Entry
CRLDO	Crosslands Savings, F.S.B. (Ser B Pfd)	08/12/87
ETEX	Eastex Energy, Inc.	08/12/87
ENTC	Entronics Corporation	08/12/87
MFGR	Morsemere Financial Group, Inc.	08/13/87
DOMN	Domain Technology, Incorporated	08/14/87
BTHL	Bethel Bancorp	08/19/87
TLMD	Telemundo Group, Inc.	08/19/87
JEPS	Jepson Corporation (The)	08/20/87
MCAWA	McCaw Cellular Communications, Inc. (C1 A)	08/21/87

The following changes to the list of NASDAQ/NMS securities occurred since August 7, 1987:

NASDAQ/NMS Symbol* and/or Name Changes

New/Old Symbol*	New/Old Security	Date of Change
MCBKA/MCBKA	Merchants Capital Corporation (C1 A)/Merchants Bank of Boston, A Cooperative Bank (C1 A)	08/10/87
MCBKB/MCBKB	Merchants Capital Corporation C1 B)/Merchants Bank of Boston, A Cooperative Bank (C1 B)	08/10/87
ELXSF/ELXS	ELXSI, Corporation/ELXSI, Ltd.	08/12/87
CRCT/OJAY	Crescott, Inc./Orange Julius International, Inc.	08/17/87
OMBK/FFSA	OmniBank of Connecticut, Inc./ First Federal Savings, F.A.	08/21/87
SCFB/SCFB	South Carolina Federal Corporation/ South Carolina Federal Savings Bank	08/21/87
PREV/PREV	Revere Fund, Inc. (The)/Revere AE Capital Fund, Inc. (The)	08/24/87

NASDAQ/NMS Deletions

Symbol*	Security	Date
MRCH	Merchants Group, Inc.	08/07/87
ZNAT	Zenith National Insurance Corporation	08/10/87
DVRY	DeVry, Inc.	08/11/87
ECIN	Electronics, Missiles & Communications, Inc. 08/11/87	
NYCQE	New York City Shoes, Inc.	08/11/87
ITELN	Itel Corporation (Cl B Pfd)	08/13/87
TRUS	Trust America Services Corporation	08/13/87
MMIC	Monolithic Memories, Inc.	08/14/87
TIPT	Tipton Centers, Inc.	08/17/87
AAGC	All American Gourmet Company	08/18/87
BPII	BPI Systems, Inc.	08/18/87
GENA	General Automation, Inc	08/18/87
MTML	Metromail Corporation	08/18/87
REITS	Real Estate Investment Trust of California	08/19/87
LAZB	La-Z-Boy Chair Company	08/20/87
CLCH	Clear Channel Communications, Inc. 08/21/87	
TRMW	Triangle Microwave, Inc.	08/24/87

Any questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Leon Bastien, Assistant Director, NASD Market Surveillance, at (202) 728-8192.

Sincerely,



Lynn Nellius
Secretary

NASDAQ/NMS Symbol* and/or Name Changes

New/Old Symbol*	New/Old Security	Date of Change
GLBC/GLFS	Great Lakes Bancorp/ Great Lakes Bancorp	7/29/87
IFSIA/IFSIA	Interface, Inc. (C1 A)/ Interface Flooring Systems, Inc. (C1 A)	7/31/87
DYAN/FAAA	Dyansen Corporation/Fine Arts Acquisitions, Ltd.	8/04/87
DYANW/FAAAW	Dyansen Corporation (Wts)/ Fine Arts Acquisitions, Ltd. (Wts)	8/04/87
REGB/MSBK	Regional Bancorp, Inc./Medford Savings Bank	8/04/87

NASDAQ/NMS Deletions

Symbol*	Security	Date
SCOAP	Hills Stores Company (Pfd)	7/27/87
HFBF	Home Federal Savings Bank Florida, F.S.B.	7/27/87
AMRE	AMRE, Inc.	7/28/87
CLEV	Clevite Industries, Inc.	7/28/87
CLEWV	Clevite Industries, Inc. (Wts)	7/28/87
MTBC	Metrobank Federal Savings Bank	7/28/87
ZBSTQ	ZZZZ Best Company, Inc.	7/28/87
ZBSWQ	ZZZZ Best Company, Inc. (Wts)	7/28/87
FSBF	First Savings Bank of Florida, F.S.B.	7/31/87
PMCO	Pan American Mortgage Corporation	8/03/87
CMRK	Caremark, Inc.	8/04/87
MODX	Modulaire Industries	8/04/87
BYOU	Bayou Resources, Inc.	8/05/87
SITVY	Southbrook International Television Company, Plc.	8/07/87

Questions regarding this notice should be directed to Kit Milholland, Senior Analyst, NASDAQ Operations, at (202) 728-8281. Questions pertaining to trade reporting rules should be directed to Leon Bastien, Assistant Director, NASD Market Surveillance, at (202) 728-8192.

Sincerely,


Lynn Nellius
Secretary



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 87-58

August 31, 1987

TO: All NASD Members and Other Interested Persons

RE: Amendments to SEC Rule 15c3-3 Regarding Treatment of Hold-in-Custody Repurchase Agreements

BACKGROUND

The Securities and Exchange Commission (SEC) has amended its customer protection rule (Rule 15c3-3) under the Securities Exchange Act of 1934, in connection with repurchase (repo) agreements with customers when the broker-dealer retains custody of any securities subject to these agreements.

The amendments become effective January 31, 1988. However, between July 25, 1987, and January 31, 1988 (the "interim period"), all broker-dealers must comply with applicable provisions of the U.S. Treasury Department's rule that was adopted on July 24, 1987. The Treasury's rule applies to all broker-dealers engaged in hold-in-custody repo activities using government securities as the collateral underlying the repo agreements.

The text of the SEC's amendments as reprinted in the Federal Register, dated August 14, 1987, is attached.

SUMMARY OF AMENDMENTS

Highlights of the SEC's amendments include the requirements that broker-dealers:

- Obtain repo agreements in writing. **Note:** The Treasury's rule for the interim period requires that these agreements be obtained for new customers by October 31, 1987, and for existing customers by January 31, 1988. An "existing customer" is defined as one with whom the broker-dealer has entered into a repo transaction between January 1, 1986, and July 25, 1987.

- Confirm in writing, when a transaction is initiated or when a substitution occurs, the specific securities that are the subject of the repo agreement.

● Disclose that the Securities Investor Protection Corporation (SIPC) has taken the position that coverage for repo agreement participants is not available under the Securities Investor Protection Act of 1970.

Note: The Treasury's rule for the interim period requires that this disclosure must be a separate document and contain (1) the statement that SIPC coverage for repo participants is not available and (2) the modified disclosure statement regarding substitution of securities. The disclosure statements must be provided by August 31, 1987, for counterparties engaged in repo transactions initiated before August 31, 1987, and ending thereafter. For counterparties initiating repo transactions on or after August 31, 1987, disclosure must be mailed to the counterparties no later than the day the transaction is initiated. The disclosure document may not be printed on the confirmation.

● Maintain possession or control of securities subject to hold-in-custody repo agreements, except that possession or control is not required if certain conditions are met.

* * * * *

Questions concerning this notice may be directed to I. William Fishkind, Associate Director, NASD Financial Responsibility, at (202) 728-8405.

Sincerely,



John E. Pinto, Jr.
Senior Vice President
Compliance

Attachment

**SECURITIES AND EXCHANGE
COMMISSION****17 CFR Part 240**

[Release No. 34-24778; File No. S7-21-86]

Customer Protection Rule**AGENCY:** Securities and Exchange Commission.**ACTION:** Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is adopting amendments to its customer protection rule under the Securities Exchange Act ("Act") in connection with repurchase agreements where the broker-dealer agrees to retain custody of the securities that are subject to those agreements ("hold in custody repurchase agreements"). The amendments to the rule will require registered broker-dealers to obtain repurchase agreements in writing, to make specific disclosures regarding certain risks associated with hold in custody repurchase transactions and to disclose that the Securities Investor Protection Corporation ("SIPC") has taken the position that coverage under the Securities Investor Protection Act of 1970 is not available to repurchase agreement participants. The amendments further require registered broker-dealers to maintain possession or control of securities subject to hold in custody repurchase agreements, except that possession or control during the trading day is not required if certain conditions are met.

EFFECTIVE DATE: January 31, 1988.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, (202) 272-2904, Julio A. Mojica, (202) 272-2372, or Michael P. Jamroz, (202) 272-2398, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In September of 1986, the Commission proposed amendments to its financial responsibility rules relating to repurchase and reverse repurchase agreements. Those proposed amendments were in response to the failures of several government securities dealers which caused substantial harm to public investors through fraudulent practices.¹ The proposal included amendments to the Commission's net capital rule, securities count and

recordkeeping rules and customer protection rule. Securities Exchange Act Rule 15c-3. Subsequently, Congress enacted the Government Securities Act of 1986 ("GSA"), which authorized the Department of the Treasury ("Treasury") to adopt financial responsibility and customer protection rules for all brokers and dealers of U.S. government securities, including those firms currently registered with the Commission. The Treasury has since adopted rules that, in large part, incorporate existing Commission financial responsibility rules. The Treasury's customer protection rule requires compliance with Rule 15c3-3, but modified the provisions that were proposed in the September Release. In Securities Exchange Act Release No. 24554 ("the June Release"), the Commission proposed for comment amendments to Rule 15c3-3 that would substantially conform to the Treasury's temporary customer protection rule. Today, the Commission adopts those amendments with certain modifications to conform to the Treasury's customer protection rule as adopted in final form on July 24, 1987.²

Unrelated to these changes, the Commission is deleting the word "last" from the wording of Item 9 of the Formula for Determination of Reserve Requirements in Rule 15c3-3a to correct an error in the Code of Federal Regulations.

I. Discussion

The proposed amendments to Rule 15c3-3 announced in September were made in response to, among other things, fraudulent practices of both unregistered and registered government securities broker-dealers involving repurchase agreements where the broker-dealers retained possession of the securities underlying the repurchase agreements ("hold in custody repo"). In a repurchase agreement ("repo"), the broker-dealer sells securities and agrees to repurchase the same or similar securities at a later date. In a hold in custody repo, the broker-dealer receives the funds from the sale of the securities but retains control of the securities. Some of the failed broker-dealers allegedly used those securities in their business although they had been sold to the repo counterparties. Those counterparties will be exposed to loss if coverage under the Securities Investor Protection Act of 1970 ("SIPA") is not available.³ The position of the Securities Investor Protection Corporation is that persons engaging in repurchase and

reverse repurchase agreements are not customers of the broker-dealer within the meaning of SIPA and are therefore not covered under SIPA.⁴

The amendments to Rule 15c3-3 proposed in September would have required broker-dealers that enter into hold in custody repos to: (i) Disclose the rights and liabilities of the parties to hold in custody repos including a statement that SIPC has taken the position that SIPA coverage is not available to repo counterparties; (ii) disclose to the counterparty which securities are being held on his behalf under the hold in custody repo; and (iii) maintain possession and control of those securities free of lien, except for clearing liens imposed during the trading day for hold in custody repos exceeding \$1 million.

Subsequent to the Commission's original proposal, the Treasury, pursuant to authority recently granted to it under the GSA, adopted temporary financial responsibility rules for all brokers and dealers in U.S. government securities in May of 1987. The Treasury's temporary customer protection rule altered the requirements proposed by the Commission. In essence, the Treasury's temporary regulation included the Commission's amendments to Rule 15c3-3 except that: (i) The Treasury rule required broker-dealers to obtain written hold in custody repurchase agreements and to make specific disclosures in those agreements regarding the broker-dealer's use of securities obtained pursuant to hold in custody repos during the trading day; and (ii) the Treasury rule did not require intra-day possession or control of securities that were subject to hold in custody repos of under \$1 million on any day on which the broker-dealer obtained the specific prior consent of the counterparty to substitution. The Commission's original proposal would have required registered broker-dealers to maintain continuous possession or control of securities subject to hold in

¹ Under section 9(a) of SIPA, advances for customer claims are limited to \$100,000 for cash claims and \$500,000 for claims for securities. To the extent the claims of repo counterparties exceed those limits, those counterparties will be exposed to loss even if SIPC coverage is extended.

² The United States District Court for the District of New Jersey decided in *Cohen v. Army Moral Support Fund (in re Beville, Bresler and Schulman)*, Adv. Proc. No. 85-21-3 (slip op.) (D.N.J. Oct. 23, 1986), that repo transactions were purchases and sales rather than secured loans. The practical effect of this decision was to extend coverage under the Securities Investor Protection Act to repo participants within that jurisdiction. A final order in that case, however, has not yet been entered and, therefore, no appeal has been possible from the Court's determination.

³ See Securities Exchange Act Release No. 23602 (September 4, 1986), 51 FR 32658 (September 15, 1986) ("September Release").

⁴ 52 FR 27910 (July 24, 1987).

custody repos under \$1 million.

In the June Release, the Commission proposed for comment alternative amendments to Rule 15c3-3 relating to the treatment of hold in custody repos. One version was the same as the Treasury's temporary rule. The other version differed from the Treasury's rule only with respect to hold in custody repos under \$1 million. The second alternative contained a continuous possession or control requirement for securities obtained under those agreements.

The Commission received one comment letter in response to its proposal.⁵ In its letter, the Public Securities Association ("PSA") objected to the required confirmation of specific securities subject to hold in custody repos and the disclosure of the market value of those securities. The PSA also opposed special restrictions on hold in custody repurchase transactions under \$1 million.

In designing its proposed amendments to the customer protection rule, the Commission intended to ameliorate, among other things, two weaknesses observed in the hold in custody repo market. One concern was the duplicative use of securities obtained by broker-dealers under hold in custody repos. The use of securities that were already subject to hold in custody repos was facilitated by the broker-dealers' failure to designate specific securities to specific repos. In confirming specific securities, this allocation will have to be performed and the double use of securities will be inhibited.

The other concern was the apparent lack of understanding of hold in custody repo counterparties of their rights and liabilities. To some extent, this misunderstanding was exacerbated by the unsettled legal status of repos. As noted above, SIPC has taken the position that repos are secured loans and not purchases and sales of securities protected under SIPA. If hold in custody repos are secured lending transactions, whether and when a perfected security interest attaches are questions of local law, the answers to which are not always clear. To the extent an interest in securities subject to a hold in custody repo exists, counterparties may be frustrated in submitting claims against those securities because they are not told which securities they purchased under the repo. In many instances, broker-

dealers confirm those transactions by submitting a confirmation to the counterparty that states that they have purchased "various" government securities. Because the counterparty never receives the securities, it may never become aware of which securities are subject to the agreement. In some cases, even the broker-dealer is not aware of which securities are subject to the agreement. As mentioned above, this may occur when the broker-dealer fails to make the designation necessary to confirm specific securities.

The amendments to Rule 15c3-3 require broker-dealers to make basic disclosures to hold in custody repo counterparties regarding their rights and liabilities under the agreement. The amendments require that the broker-dealer inform the counterparty of SIPC's position and state to the counterparty that its securities may be subject to clearing liens during the trading day.

The amendments also require the broker-dealer to disclose the identity of the specific securities that are the subject of the agreement so the counterparty will be able to pursue any legal interest it may have in those securities in the event that the broker-dealer defaults. The broker-dealer will also be required to include the market value of those securities on the confirmation so the counterparty can more easily determine if sufficient securities have been allocated to it under the agreement. The disclosure of market value is particularly important because it is evident that in some sectors of the repo market, counterparties are measuring credit exposure by comparing the amount of funds invested in the repurchase transaction to the face value of government securities involved. The disclosure of market value of the securities subject to the repo emphasizes to those counterparties that market value, not face value, is the appropriate measure for determining credit exposure.

With respect to hold in custody repo transactions under \$1 million, the Commission believes that special treatment for those transactions is not appropriate at this time. When the amendments to Rule 15c3-3 were proposed for comment in September 1986, the Commission sought to achieve its regulatory objectives with a minimum burden on the repo marketplace. The Commission learned that, in order to maximize the efficiency of the settlement process for U.S. government securities, broker-dealers needed to be able to substitute securities subject to hold in custody

repos. In order for those substitutions to be performed, broker-dealers had to combine securities subject to hold in custody repos with other government securities in their clearance accounts and submit all of those securities to clearing liens during the day. However, the Commission was also aware of instances where securities subject to hold in custody repos were misappropriated. The Commission therefore proposed that broker-dealers obtain possession and control of securities that were the subject of hold in custody repo agreements exceeding \$1 million at the end of each trading day. Because the Commission was concerned that smaller investors might not fully appreciate the risks involved with hold in custody repo transactions, the Commission proposed that small hold in custody repo transactions be subject to a continuous possession or control requirement.

When the Commission repropoed its amendments in the alternative in June 1987, the amendments included significant modifications to the Commission's original proposal that were included in the recently adopted Treasury's temporary rule. Both alternatives required that hold in custody repo agreements be written and include specific disclosures regarding SIPC coverage and the effects of consent to substitution by the counterparty. The alternatives differed in that one would have required continuous possession or control of securities subject to hold in custody repos under \$1 million while the other proposed, in a manner identical to that required under the Treasury's temporary rule, that those securities could be used by the broker-dealer provided that prior written or oral consent of the counterparty had been received on the day of use.

The release requested comment on the enforceability of an oral consent provision but, at the same time, the Commission was uncertain of whether the benefit obtained by a continuous possession or control requirement was worth the cost to the industry of treating smaller hold in custody repos differently. The Commission was aware that broker-dealers may incur a significant recordkeeping cost in identifying those transactions. Furthermore, a continuous possession or control requirement may hinder the settlement process if the broker-dealer is unable to effect substitutions. The Commission also understands that many small hold in custody repos are entered into by large, sophisticated investors. Since hold in custody repos often represent temporary investments of

⁵ The Department of Treasury received 21 comment letters which the Commission considered in evaluating this proposal. The Treasury comment letters have been placed in the Commission's public files.

available cash balances, the size of the repo is often more a function of available funds than the net worth of the investor. Finally, the Commission was concerned that the stricter segregation requirements might result in many firms refusing to effect small hold in custody repo transactions.

Some of the Commission's concerns have been addressed by modifications to its original proposal. The amendments, as adopted, require explicit disclosures regarding the risks of entering into hold in custody repos to be made in a written agreement. The counterparty will be informed of the ramifications of his consent to substitution and the exposure of his securities to clearing liens. Moreover, the Commission believes that the requirement that firms segregate hold in custody securities every night and confirm the specific securities employed in hold in custody repos should serve to protect against the double use of those securities. In light of all of the considerations, the Commission has determined that a separate standard for hold in custody repos under \$1 million is not appropriate.

The Commission remains concerned about the use of free credit balances by means of hold in custody repurchase agreements. In some instances, broker-dealers have characterized free credit balances as repurchase agreements in an apparent attempt to avoid depositing those free credit balances in the Special Reserve Bank Account for the Exclusive Benefit of Customers ("Reserve Account") under Rule 15c3-3(e).⁶ The Commission believes that the written agreement requirement will inhibit this practice and make smaller repo participants more conscious of the risks involved in the transaction. However, the Commission's view is that if the broker or dealer enters into a hold in custody repurchase agreement with a retail customer who has a preexisting free credit balance with the broker or dealer, the liability of the broker or dealer will ordinarily be considered to be a free credit balance for purposes of Rule 15c3-3. Customers that conduct

⁶ Rule 15c3-3(e) requires broker-dealers to deposit in the Reserve Account an amount as computed on a periodic basis under the Rule 15c3-3a Formula for Determination of Reserve Requirement ("Reserve Formula"). Under the Reserve Formula, the amount of the required deposit is determined by comparing the free credit balances and other funds obtained from customers to the amount by which the broker-dealer finances customer activities through the use of its own funds. Because the Commission has not taken the position that repo participants are "customers" for purposes of Rule 15c3-3, funds obtained in a repo would not be included in the Reserve Formula unless customer securities were used in the repo.

their business with the broker-dealer on a delivery versus payment basis would not be considered retail customers for purposes of this interpretation. The Commission will continue to monitor this area and may consider imposing separate restrictions on smaller hold in custody repos in the future. The Commission has selected an effective date of January 31, 1988, to coincide with the effective date of the Treasury rule adopted in final form July 24, 1987. Between July 25, 1987 and January 31, 1988 registered broker-dealers must comply with applicable provisions of the Treasury rule.

II. Summary of Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. section 604 regarding the amendments to Rule 15c3-3. The Analysis notes that the objective of the amendments is to further the purposes of the various financial responsibility rules, which are designed to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers and to require broker-dealers to maintain such records as necessary or appropriate in the public interest or for the protection of investors. The Analysis states that the amendments would subject small broker-dealers to additional recordkeeping and disclosure requirements. The Analysis states that the Commission did not receive any comments concerning the Initial Regulatory Flexibility Analysis. A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Michael P. Jamroz, Division of Market Regulation, Securities and Exchange Commission, Washington, DC 20549, (202) 272-2398.

III. Statutory Authority

Pursuant to the Securities Exchange Act of 1934 and, particularly, sections 15(c)(3), 17 and 23 thereof, 15 U.S.C. 78o(c)(3), 78q, and 78w, the Commission is adopting amendments to 240.15c3-3 of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Part 240 Securities.

Text of Amendments

In accordance with the foregoing, 17 CFR Part 240 is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read as follows:

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w * * *. Section 240.15c3-3 is also issued under secs. 15(c) (3) and 17(a), 15 U.S.C. 78o(c) (3) and 78q(a)

2. By adding paragraph (b)(4) to § 240.15c3-3 as follows:

§ 240.15c3-3 Customer protection reserves and custody of securities.

(b) * * *

(4)(i) Notwithstanding paragraph (k)(2)(i) of this section, a broker or dealer that retains custody of securities that are the subject of a repurchase agreement between the broker or dealer and a counterparty shall:

(A) Obtain the repurchase agreement in writing;

(B) Confirm in writing the specific securities that are the subject of a repurchase transaction pursuant to such agreement at: the end of the trading day on which the transaction is initiated and at the end of any other day during which other securities are substituted if the substitution results in a change to issuer, maturity date, par amount or coupon rate as specified in the previous confirmation;

(C) Advise the counterparty in the repurchase agreement that the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 do not protect the counterparty with respect to the repurchase agreement;

(D) Maintain possession or control of securities that are the subject of the agreement.

(ii) For purpose of this paragraph (b)(4), securities are in the broker's or dealer's control only if they are in the control of the broker or dealer within the meaning of § 240.15c3-3 (c)(1), (c)(3), (c)(5) or (c)(6) of this title.

(iii) A broker or dealer shall not be in violation of the requirement to maintain possession or control pursuant to paragraph (b)(4)(i)(D) during the trading day if:

(A) In the written repurchase agreement, the counterparty grants the broker or dealer the right to substitute other securities for those subject to the agreement; and

(B) The provision in the written repurchase agreement governing the right, if any, to substitute is immediately preceded by the following disclosure

statement, which must be prominently displayed:

Required Disclosure

The [seller] is not permitted to substitute other securities for those subject to this agreement and therefore must keep the [buyer's] securities segregated at all times, unless in this agreement the [buyer] grants the [seller] the right to substitute other securities. If the [buyer] grants the right to substitute, this means that the [buyer's] securities will likely be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they will be subject to liens granted by the [seller] to its clearing bank and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to resegment substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy the clearing lien or to obtain substitute securities.

(iv) A confirmation issued in accordance with paragraph (b)(4)(i)(B) of this section shall specify the issuer, maturity date, coupon rate, par amount and market value of the security and shall further identify a CUSIP or mortgage-backed security pool number, as appropriate, except that a CUSIP or a pool number is not required on the confirmation if it is identified in internal records of the broker or dealer that designate the specific security of the counterparty. For purposes of this paragraph (b)(4)(iv), the market value of any security that is the subject of the repurchase transaction shall be the most recently available bid price plus accrued interest, obtained by any reasonable and consistent methodology.

(v) This paragraph (b)(4) shall not apply to a repurchase agreement between the broker or dealer and another broker or dealer (including a government securities broker or dealer), a registered municipal securities dealer, or a general partner or director or principal officer of the broker or dealer or any person to the extent that his claim is explicitly subordinated to the claims of creditors of the broker or dealer.

3. By amending § 240.15c3-3a by revising item 9 as follows:

§ 240.15c3-3a Exhibit A—formula for determination of reserve requirement of brokers and dealers under § 240.15c3-3.

	Debits	Credits
9 Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by	•	•

9 Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by XXX

	Debits	Credits
the transfer agent or the issuer during the 40 days.	•	•

By the Commission.
August 6, 1987.

Jonathan G. Katz,
Secretary.
[FR Doc. 87-18478 Filed 8-13-87; 8:45 am]
BILLING CODE 8010-01-M



National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 87-59

August 31, 1987

TO: All NASD Members and Other Interested Persons

RE: Check List of NASD Notices to Members

The following are NASD Notices to Members issued during the fourth quarter of 1986, and the first and second quarters of 1987. Requests for copies of any notice should be accompanied by a self-addressed mailing label and directed to: NASD Administrative Services, 1735 K Street, N.W., Washington, D.C. 20006-1506.

Fourth Quarter—1986

Notice Number	Date	Topic
86-67	October 2, 1986	NASDAQ National Market System Grows To 2,580 Securities With 23 Voluntary Additions on October 7, 1986
86-68	October 6, 1986	Proposed Amendment to Article III, Section 35 of the NASD Rules of Fair Practice Relating to Advertising and Sales Literature for Direct Participation Programs
86-69	October 10, 1986	Amendments to NASD Rules on Short Sales Become Effective October 15, 1986
86-70	October 15, 1986	NASDAQ National Market System Grows To 2,602 Securities With 12 Voluntary Additions On October 21, 1986
86-71	October 15, 1986	Holiday Settlement Schedule - November 1986
86-72	October 15, 1986	SIPC Trustee Appointed - Norbay Securities, Inc. 3635 Bell Boulevard Bayside, New York 11361

Notice Number	Date	Topic
86-73	October 16, 1986	Effectiveness of Exemption from NASD Board of Governors' Free-Riding Interpretation for Conversions of Savings And Loan Associations and Certain Other Organizations
86-74	October 30, 1986	Proposed Amendments to Article III, Section 19(f) and Section 33(d) of the NASD Rules of Fair Practice and Article X, Section 6 of the NASD By-Laws
86-75	October 30, 1986	NASDAQ National Market System Grows To 2,638 Securities With 25 Voluntary Additions on November 4, 1986, and Eight Mandatory Inclusions on November 11, 1986
86-76	November 10, 1986	South African Sanctions Act
86-77	November 10, 1986	SIPC Trustee Appointed - John Franklin & Associates 1975 Hempstead Turnpike East Meadow, New York 11554
86-78	November 13, 1986	NASDAQ National Market System Grows To 2,658 Securities With 21 Voluntary Additions on November 18, 1986
86-79	November 13, 1986	Quarterly Checklist of Notices to Members
86-80	November 14, 1986	Proposed Changes to the Financial Recordkeeping and Reporting of Currency and Foreign Transactions
86-81	November 21, 1986	Amendments to Appendix F Regarding Freely Tradable Partnership Units Effective Immediately
86-82	November 21, 1986	1987 Schedule of Holidays
86-83	December 1, 1986	Proposed New NASD Rule of Fair Practice Prohibiting Members From Effecting Securities Transactions During Trading Halts
86-84	November 26, 1986	NASDAQ National Market System Grows To 2,687 Securities With 30 Voluntary Additions on December 2, 1986

Notice Number	Date	Topic
86-85	December 5, 1986	Request for Comments on Proposed Amendments to Article II, Sections 3, 4 And 5 of the NASD By-Laws
86-86	December 15, 1986	NASDAQ National Market System Grows To 2,709 Securities With 26 Voluntary Additions on December 16, 1986
86-87	December 16, 1986	Christmas Day - New Year's Day: Trade Date-Settlement Date Schedule
86-88	December 19, 1986	Effect of the Tax Reform Act of 1986 on NASD Qualifications Examinations
86-89	December 29, 1986	NASDAQ National Market System Grows To 2,734 Securities With 30 Voluntary Additions on January 6, 1987

First Quarter—1987

Notice Number	Date	Topic
87-1	January 6, 1987	Martin Luther King, Jr.'s Day: Trade Date-Settlement Date Schedule
87-2	January 7, 1987	Adoption of Amendments to Article III, Section 28 of the NASD Rules of Fair Practice Regarding Securities Accounts Of Associated Persons at Non-NASD Members
87-3	January 14, 1987	NASDAQ National Market System Grows To 2,729 Securities With 17 Voluntary Additions on January 20, 1987
87-4	January 21, 1987	Presidents' Day: Trade Date-Settlement Date Schedule
87-5	January 29, 1987	NASDAQ National Market System Grows To 2,754 Securities With 24 Voluntary Additions on February 3, 1987
87-6	January 30, 1987	Request for Comments on Proposed Amendments to the NASD's Rules of Practice and Procedure for the Small Order Execution System (SOES)
87-7	February 10, 1987	NASDAQ National Market System Grows To 2,775 Securities With 17 Voluntary Additions on February 17, 1987

Notice Number	Date	Topic
87-8	February 17, 1987	South African Sanctions Act Regulations
87-9	February 19, 1987	Proposed Amendments to Article XIV of The NASD By-Laws and Article V, Sections 1 and 2 of the NASD Rules of Fair Practice Concerning Disciplinary Sanctions
87-10	February 25, 1987	Proposed Amendment to Section 66 of The NASD Uniform Practice Code Regarding Prompt Settlement of Syndicate Accounts
87-11	February 25, 1987	NASDAQ National Market System Grows To 2,788 Securities With 17 Voluntary Additions on March 3, 1987
87-12	February 26, 1987	Adoption of Amendment to Schedule G Of the NASD By-Laws
87-13	February 27, 1987	Proposed Amendments to Article II, Sections 3, 4 and 5 of the NASD By-Laws
87-14	March 2, 1987	Request for Comments on Proposed Amendments to Article I, Section (c) of The NASD By-Laws and Schedule C to The NASD By-Laws Relating to the Definition of the Term "Branch Office"
87-15	March 6, 1987	Proposed Amendments to Article III, Sections 21(b) and 41 of the NASD Rules Of Fair Practice and the Interpretation Of the Board of Governors Concerning Short Sales
87-16	March 10, 1987	Request for Comments on Proposed Amendments to Article IV, Sections 3 And 4 of the NASD By-Laws and Article IV, Section 5 of the NASD Rules of Fair Practice
87-17	March 11, 1987	NASDAQ National Market System Grows To 2,802 Securities With 20 Voluntary Additions on March 17, 1987
87-18	March 25, 1987	Good Friday: Trade Date-Settlement Date Schedule
87-19	March 27, 1987	Federal Regulation of Government Securities Brokers and Dealers Under the Government Securities Act of 1986

Second Quarter-1987

Notice Number	Date	Topic
87-20	April 1, 1987	Request for Comments on Proposed Amendment to Article V, Section 1 of The NASD Rules of Fair Practice
87-21	April 2, 1987	NASDAQ National Market System Grows To 2,847 Securities With 37 Voluntary Additions on April 7, 1987
87-22	April 13, 1987	Amendments to Resolution of the Board Of Governors Concerning Its Policy on Publication of Disciplinary Actions
87-23	April 14, 1987	Effectiveness of Amendment to Section 66 of the NASD Uniform Practice Code Regarding Prompt Settlement of Syndicate Accounts
87-24	April 14, 1987	Request for Comments on Proposed Amendments to Article III, Section 35 of The NASD Rules of Fair Practice
87-25	April 14, 1987	Request for Comments and Suggestions On Regulation of Market Making by Affiliates of Issuers
87-26	April 14, 1987	NASDAQ National Market System Grows To 2,850 Securities With 12 Voluntary Additions on April 21, 1987
87-27	April 30, 1987	NASDAQ National Market System Grows To 2,873 Securities With 19 Voluntary Additions on May 5, 1987, and Four Mandatory Inclusions on May 12, 1987
87-28	May 4, 1987	Memorial Day: Trade Date-Settlement Date Schedule
87-29	May 14, 1987	NASDAQ/MSE: Unlisted Trading Privileges
87-30	May 28, 1987	NASDAQ National Market System Grows To 2,893 Securities With 21 Voluntary Additions on May 19, 1987
87-31	May 28, 1987	Mark-Ups and Mark-Downs on Zero-Coupon Securities
87-32	June 1, 1987	Request for Comments on Shareholder Voting Rights Proposal for NASDAQ Companies

Notice Number	Date	Topic
87-33	June 1, 1987	Forms BD and U-4 Revisions, Government Securities Brokers and Dealers Registration Requirements
87-34	June 2, 1987	NASDAQ National Market System Grows To 2,917 Securities With 28 Voluntary Additions on June 2, 1987
87-35	June 9, 1987	NASDAQ National Market System Grows To 2,940 Securities With 23 Voluntary Additions on June 16, 1987
87-36	June 12, 1987	Split Expiration of Index Options and Futures on June 19, 1987
87-37	June 16, 1987	Proposed Amendment to Article I, Section (c) of the NASD By-Laws Relating to the Definition of the Term "Branch Office"
87-38	June 17, 1987	Independence Day: Trade Date-Settlement Date Schedule
87-39	June 19, 1987	Request for Comments on Addition of a Corporate Securities Limited Representative Category of Registration Under Schedule C to the NASD By-Laws
87-40	June 22, 1987	Request for Comments on a Proposed Amendment to Article III, Section 35 of The NASD Rules of Fair Practice Concerning Testimonials
87-41	June 29, 1987	Proposed Amendments to Definitions of "Branch Office" and "Office of Supervisory Jurisdiction" Under the NASD By-Laws, Schedule C to the By-Laws, and the Rules of Fair Practice