



DIVISION OF
MARKET REGULATION

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

December 7, 1999

Mr. Stuart J. Kaswell
Senior Vice President and
General Counsel
Securities Industry Association
1401 Eye Street, NW
Washington, DC 20005-2225

Re: Rule 17a-9T

Dear Mr. Kaswell:

This responds to your letter dated November 29, 1999, on behalf of the Securities Industry Association ("SIA"), regarding the requirement under Rule 17a-9T under the Securities Exchange Act of 1934 ("Exchange Act")¹ for certain broker-dealers to make and preserve before January 1, 2000 separate copies of trade blotters and securities records or ledgers for each of the last three business days of 1999.

I understand the following facts to be pertinent to your request. Rule 17a-9T requires a broker-dealer that must maintain minimum net capital of \$250,000 under Rule 15c3-1(a)(2)(i) under the Exchange Act² to make before January 1, 2000 the following stock records: (1) separate copies of blotters pursuant to Rule 17a-3(a)(1) under the Exchange Act³ for each of December 29, December 30 and December 31 of 1999; and (2) a separate copy of the securities record or ledger pursuant to Rule 17a-3(a)(5) under the Exchange Act⁴ as of the close of business for each of December 29, December 30 and December 31 of 1999. Firms must preserve these records in a format acceptable and in

¹ 17 CFR § 240.17a-9T (1999).

² 17 CFR § 240.15c3-1(a)(2)(i) (1999).

³ 17 CFR § 240.17a-3(a)(1) (1999).

⁴ 17 CFR § 240.17a-3(a)(5) (1999).

compliance with the conditions described in Rule 17a-4(f) under the Exchange Act⁵ for a period of not less than one year.

You request that broker-dealers not be required to make and preserve in an acceptable format the December 31, 1999 records required under Rule 17a-9T before midnight, December 31, 1999. You state that firms have found that it is not feasible to meet this deadline because the overnight batch processing of these records begins after the close of business when system resources become available and that this process continues past midnight. You further state that if firms re-arrange their batch processing system to meet the January 1, 2000 deadline it "would increase the likelihood of a system disruption," particularly because December 31st is a month, quarter and year-end date.

You contend that one of the underlying purposes of Rule 17a-9T is to ensure that a broker-dealer will be able to reconstruct its lost records as a result of a Year 2000 problem. You further contend that on December 31, 1999 firms will be backing up and retaining data in the normal course of business and that, if necessary, this data can be used with the completed ledger and blotter records from December 29 and December 30 of 1999 to reconstruct the firm's December 31, 1999 blotters and stock record.

Based on the above, the Division of Market Regulation ("Division") will not recommend enforcement action to the Securities and Exchange Commission if a broker-dealer does not make and preserve in an acceptable format the December 31, 1999 records required under Rule 17a-9T before midnight, December 31, 1999, provided that the following conditions are met:

- (1) the firm retains the core data necessary to reconstruct its activities of December 31, 1999; and
- (2) the firm makes and preserves the required records for December 29 and December 30 of 1999 in accordance with the requirements of Rule 17a-9T.

⁵ 17 CFR § 240.17a-4(f) (1999). Paragraph (f) of Rule 17a-4 permits a broker-dealer to utilize "micrographic media" and "electronic storage media" for records required to be maintained under the Rule. The term micrographic media means microfilm or microfiche, or any similar medium meeting the conditions of paragraph (f) of the Rule. The term electronic storage media means any digital storage medium or system meeting the conditions of paragraph (f) of the Rule.

Mr. Stuart J. Kaswell

December 7, 1999

Page 3

You should be aware that this is a staff position with respect to enforcement only and does not purport to express any legal conclusions. This position is based solely on the above description. Factual variations could warrant a different response, and any material change in the facts must be brought to the Division's attention. This position may be withdrawn or modified if the staff determines that such action is necessary for the protection of investors, in the public interest, or otherwise in furtherance of the purposes of the securities laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Macchiaroli". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Michael A. Macchiaroli
Associate Director

cc: Raymond J. Hennessy, NYSE
Sam Luque, NASDR