

NASD

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

notice to members 83-1

January 6, 1983

TO: All NASD Members

ATTENTION: Trading Departments
Branch Office Trading Locations

RE: Real-Time Transaction Reporting in NASDAQ NMS Securities

On April 1, 1982, the NASD announced the commencement of real-time transaction reporting under Schedule D of the Association's By-Laws for certain NASDAQ securities that have been designated National Market System (NMS) securities. Since inception, the Association has been monitoring transaction reporting in this new environment through the NASDAQ System as well as during special on-site inspections of all market makers in NASDAQ NMS securities for the purpose of determining member experiences with NMS trade reporting requirements and to provide ongoing education and guidance to affected members.

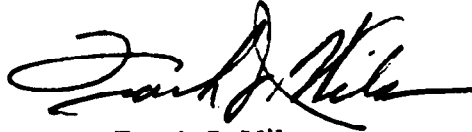
The new reporting rules have significantly expanded transaction and price information available to members, issuers and public investors in NASDAQ NMS securities. Therefore, members are required to have in place effective internal procedures and systems to satisfy their obligations under these new rules. For this reason, the Association has over the past several months endeavored to facilitate the transition to real-time trade reporting by providing members with comprehensive and detailed information concerning the reporting rules through notices to members, educational materials and instructional conferences held in major cities throughout the country earlier this year.

All of the above efforts have been undertaken to assure that transactions in the NASDAQ NMS securities are being reported properly and that price and volume information being disseminated to the investing public via the newswires and newspapers is timely and accessible. As part of this continuing effort, the Association is again publishing a NASDAQ NMS summary of the Trade Reporting Rule under Schedule D of the Association's By-Laws (Exhibit I). This summary contains information concerning when to report, who is obligated to report, the prices at which transactions are to be reported, the circumstances under which NASDAQ NMS trades may be aggregated or "bunched" and the circumstances under

which members may be exempt from trade reporting. The summary should be provided to all personnel having responsibility to report transactions in NASDAQ NMS securities and should be utilized as a guide to the key provisions of the rules. Also enclosed for reference purposes is a copy of the reporting rule itself (Exhibit II). Association examiners will continue to review for compliance with all aspects of Schedule D during regular and special on-site examinations of members conducting a business in NASDAQ/NMS securities.

Should you have questions regarding this notice, the requirements of Schedule D or should additional copies of this notice be needed, please contact Leon Bastien at (202) 728-8202.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Wilson", written in a cursive style.

Frank J. Wilson
Executive Vice President
Legal and Compliance

Enclosures

Test Series Key

<u>Series Number</u>	<u>Examination Title</u>
2	NASD Non-Member General Securities Examination
4	Registered Options Principal Examination
6	Investment Company Products/Variable Contracts Representative Examination
7	General Securities Representative Examination
8	General Securities Sales Supervisor Examination
22	Direct Participation Programs Representative Examination
24	General Securities Principal Examination
26	Investment Company Products/Variable Contracts Principal Examination
39	Direct Participation Programs Principal Examination
52	Municipal Securities Representative Examination

NASD

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

notice to members 83-2

January 11, 1983

TO: All NASD Members and Interested Persons
RE: Effect of Tax Law Changes on NASD Qualification Examinations

ATTENTION: REGISTRATION AND TRAINING PERSONNEL

The passage of the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA" or the "Act") has brought about changes in the tax law which will have an impact on the subject matter of the qualification examinations administered by the NASD. The chart at the end of this notice lists the areas affected by the Act and identifies by study outline section the examinations affected by the new tax laws. In addition, a brief explanation of these changes is included below.

All test questions in the item banks affected by the Act will be updated to reflect the new provisions beginning January 1, 1983.

SUBJECT AREAS AFFECTED BY TAX CHANGES

I. Individual Tax Rates

Alternative Minimum Tax - The add-on minimum tax is repealed. The alternative minimum tax is payable if it exceeds the regular income tax. The tax preference items which previously were included in the calculation of the add-on minimum tax, are now added to adjusted gross income. The alternative minimum tax rates are:

Tax Rate %	Adjusted Gross Income	
	Single Returns	Joint Returns
0	0 - \$30,000	0 - \$40,000
20	Over \$30,000	Over \$40,000

Tax Preference Items - Below are the tax preference items for the purpose of computing the alternative minimum tax under TEFRA:

- Excess of the fair market value over the option price at exercise of incentive stock options;
- Allowable depletion less the adjusted basis of the property at year-end;
- Excess intangible drilling costs reduced by the net income from oil and gas properties;
- All-saver's interest excluded from income;
- \$200/\$100 dividend exclusion;
- Excess of accelerated cost recovery deduction on leased property over the deduction allowable using the straight-line method and extended life;
- Excess of accelerated cost recovery deduction on real property over the deduction allowable using 15 years and the straight-line method;
- Accelerated depreciation on real property and leased personal property in excess of straight-line;
- Excess of deductible mining exploration expenses, circulation expenses, and research and experimental expenses over amounts allowable if the expenses were capitalized and amortized over ten years; and,
- Excess of the five-year write-off for certified pollution control facilities over the amount allowable if the facility had been written off under normal depreciation rules.

II. Depreciation and Tax Credits

Accelerated Cost Recovery System - The faster cost recovery percentages scheduled to become effective in 1985 are repealed under TEFRA.

Investment Tax Credit (ITC) - The basis of an asset will be reduced by 50% of the tax credit generated, including regular investment tax credit historic rehabilitation credit and energy credit. For other rehabilitation expenditures, basis will be reduced by the full amount of the credit. The reduced basis will be used to calculate the accelerated cost recovery deductions and gain or loss upon disposition of the property.

The reduction in basis can be avoided for the regular investment tax credit by electing, on a property by property basis, to reduce the ITC by two percentage points — reducing the 10% credit to 8% or the 6% credit to 4%. This election is NOT available for the energy credit or the historic rehabilitation credit. ITC may reduce up to 85% of the income tax liability in excess of \$25,000.

III. Investments

Original Issue Discount - The method for determining the deduction for the original issue discount has been changed from a straight-line method to a method corresponding to the actual accrual of interest.

This new method reduces the amount of interest deductions and interest income in the early years of a bond's life. The amount of interest deductions and the corresponding interest income included by the bondholders increase each year over the life of the bond.

The new provisions extend the rules to taxable discount government obligations such as treasury bonds and notes as well as bonds issued by partnerships. Tax exempt bonds, U.S. Savings Bonds and treasury bills are excluded from these rules.

Registration of Debt Obligations - Under TEFRA, most debt obligations issued after December 31, 1982, will be required to be registered, including those issued by the United States and state and local governments. The primary exceptions to the Act include:

Obligations maturing in one year or less from date of issue; and,

Obligations sold outside the United States to non-U.S. persons.

These registration requirements for state and municipal obligations will become effective on July 1, 1983, at which time the interest income on otherwise tax-exempt obligations will no longer be exempt if the registration requirements are not met.

Issuers of debt obligations will not be allowed an interest deduction on obligations not meeting the registration requirements, may not reduce earnings and profits for such interest and are liable for an excise tax equal to one percent of the principal amount for each year from date of issue to maturity. A holder of a bond not in compliance with the registration requirements may not on disposition thereof deduct any losses or receive capital gain treatment.

Coupon Stripping - Bondholders have used "coupon stripping" to create losses or accelerate income by selling separately bond coupons while retaining the principal. Under TEFRA the seller must:

- (1) allocate the basis of the investment between the rights retained and disposed of based on their relative fair market value; and,
- (2) include in income any interest accrued to the date of sale. The accrued income is added to basis in making the basis allocations.

The items retained by the bondholder — the stripped bond or coupon — will be treated as original issue discount bonds issued by a corporation on the date of disposition and subject to the periodic original issue discount rules. The purchasers of a stripped bond or a detached coupon essentially acquire an original issue discount bond and must periodically include in income the original issue discount from the date of purchase to the maturity date of the bond or redemption date of the coupon.

Tax exempt bonds are affected by TEFRA to the extent that:

- (1) basis must be allocated if a tax exempt bond is stripped; and,
- (2) on subsequent sale or maturity of principal, gain, to the extent of the fair market value at the time of stripping of coupons not received, will be taxed as ordinary income.

IV. Small Business

Subchapter S Corporations - The number of shareholders has been increased to 35 and the differences in stock voting rights will not create separate classes of stock.

A corporation can elect Subchapter S status during the first 75 days of a tax year. If the following requirements are not met, the election is not effective until the following year:

- (1) the corporation and shareholders must have been eligible during the entire period of the tax year prior to the election; and,
- (2) all persons who held stock in the corporation at any time during the period of the year prior to the election must consent to the election.

Under TEFRA, the 80% foreign source income limitation is repealed and for corporations without accumulated earnings and profits for their years as a regular corporation, the 20% passive income limitation is repealed.

Subchapter S corporations with accumulated earnings from pre-Subchapter S years will be taxed on passive income in excess of 25% of gross receipts. However, the election will be terminated only if the 25% limit is exceeded for three consecutive years.

V. Retirement Plans

Partial IRA Rollovers - A distribution from an IRA may be partially rolled over within 60 days of receipt. The amount rolled over will not be currently taxed, but any amount retained will be taxed in the year received.

Deferred Annuities - Under the IRS Code, deferred annuities generally allow an annuitant to defer taxation of the accumulated earnings until the annuity payments begin. In order to discourage the use of deferred annuities as a short-term investment, the taxation rules are changed under TEFRA for contracts entered into after August 13, 1982. For post August 13, 1982, contracts, partial withdrawals before the annuity starting date will be considered payment of accumulated earnings and will only be treated as a nontaxable distribution out of principal after all accumulated earnings are withdrawn. Loans received by the annuitant are treated as withdrawals. Withdrawals of accumulated earnings from post August 13, 1982, contracts may be subject to a 5% penalty tax, unless certain stipulated conditions are met.

* * * * *

Questions regarding this notice should be directed to Carole Hartzog at (202) 728-8141.

Sincerely,



Frank J. McAuliffe
Vice President
Qualifications and Examinations Department

**Examinations Affected by the Tax Equity and Fiscal Responsibility Act of 1982
(Numerical References Within Test Series Identify
Study Outline Sections Affected by the "Act")**

Areas Changed	Test Series Affected						
	2	6	7	8	22	24	26
I. Individual Tax Rates							
A. Alternative Minimum Tax					3.3.4		
B. Tax Preference Items					3.3.4		
II. Depreciation and Tax Credits							
A. Accelerated Cost Recovery System					3.2.2		
B. Investment Tax Credit					3.2.5		
III. Investments							
A. Original Issue Discount				14.11.2			
B. Registration of Debt Obligation	3.1, 3.2, 3.3			1.1.3			
C. Coupon Stripping	3.1			1.1.3 1.2			
IV. Small Business					1.2.1		
A. Subchapter S Corporations							
V. Retirement Plans							
A. Partial IRA Rollovers	5.7	3.3.1	3.3	2.3.2		3.1.6	2.3.2
B. Deferred Annuities		3.1.8	3.1.10	2.3.2			2.3.2

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TEST SERIES KEY

Series Number	Examination Title
2	SECO/NASD NonMember General Securities Examination
6	Investment Company Products/Variable Contracts Representative Examination
7	General Securities Representative Examination
8	General Securities Sales Supervisor Examination
22	Direct Participation Programs Representative Examination
24	General Securities Principal Examination
26	Investment Company Products/Variable Contracts

NASD

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

notice to members 83-3

January 19, 1983

TO: All NASD Members

RE: Securities and Exchange Commission Approves Amendments to Rule 17f-2; Fingerprinting of Securities Industry Personnel

The Securities and Exchange Commission has adopted a number of amendments to Rule 17f-2 concerning the fingerprinting of securities industry personnel. These revisions are intended to simplify the process of claiming exemptions by clarifying existing provisions of the rule and by incorporating in the rule other exemptions previously granted by the Commission on a case-by-case basis.

These amendments represent substantial relief to members by reducing the burden associated with the submission and review of notices and certain requests for exemptions, among other things. As finally adopted, the rule reflects a number of recommendations made by the NASD via the comment process.

The details of the changes to the rule are contained in Securities Exchange Act Release No. 19268, published in the Federal Register on December 1, 1982, (a reprint of that release is attached). A discussion of the significant aspects of these amendments follows.

Permissive Exemptions Available to Registered Broker-Dealers Engaged in Sales of Certain Securities

Paragraph (a)(1)(iii) grants permissive exemptions from the requirements of the fingerprinting rule to registered broker-dealers engaged in the sale of certain securities which are not ordinarily evidenced by the issuance of certificates. This relief is available on a self-operative basis to registered broker-dealers engaged exclusively in the sale of shares of registered open-end management investment companies, variable contracts, or interests in limited partnerships, unit investment trusts or real estate investment trusts; provided that:

- The broker-dealer is current in its continuing obligation to update Item 10 of Form BD to disclose the existence of any statutory disqualification;
- The broker-dealer has insurance or bonding coverage indemnifying it for losses to customers caused by the fraudulent or criminal acts of any of its partners, directors, officers or

employees for whom an exemption is being claimed under this paragraph; and,

- The broker-dealer is subject to the jurisdiction of a state insurance department with respect to its sale of variable contracts.

Once the broker-dealer satisfies these conditions, the permissive exemption is available to every partner, director, officer and employee of the broker-dealer provided that such person meets the requirements of paragraph (a)(1)(i)(B), i.e., he does not regularly have access to the keeping, handling or processing of securities, monies or the original books and records relating to the securities or the monies.

Notice Requirement

The adopted amendments also include a change concerning the "Notice Pursuant to Rule 17f-2" ("Notice") which contains information concerning those persons for whom a broker-dealer claims an exemption from the fingerprinting requirement. Previously, a broker-dealer was required to submit these Notices to the SEC's principal office in Washington, D.C., and to the regional office in which the broker-dealer has its principal place of business. The revised rule, however, eliminates this requirement. Instead, a broker-dealer is required to retain the Notice among its records and to furnish it upon request by the Commission or the broker-dealer's designated examining authority. The amendments also clarify what information must be included in the Notice.

This change regarding the Notice requirement has implications for a firm which processes registration application forms through the Central Registration Depository (CRD). The CRD, which is governed by contractual agreement between the NASD and the North American Securities Administrators Association, honors federal exemptions from the fingerprint requirement in accordance with the provisions of Rule 17f-2. However, CRD must be advised that a firm is claiming such exemptions. In this regard, a broker-dealer is requested to submit a copy of its Notice to the CRD. The Notice should be directed to the attention of James J. Cummings, Associate Director, NASD Membership Department, 1735 K Street, N.W., Washington, D.C. 20006.

Exemptive Relief Available for Illegible Fingerprints

Paragraph (a)(1)(iv) incorporates in the rule an exemption that has been granted in Commission letters to persons from whom a complete set of legible fingerprints cannot be obtained. In the past, these exemptions have only been granted by the Commission upon specific written application.

As a result of the recent amendments, any person who is required to be fingerprinted but who cannot produce legible prints will now be exempt if the employing broker-dealer can demonstrate that it has on at least three occasions attempted in good faith to obtain a complete set of fingerprints; it is no longer necessary to make written application to the Commission.

In this regard, however, a broker-dealer is expressly directed to have that person's fingerprints rolled by someone competent to do so and to submit the

prints for processing in accordance with proper procedures. This exemption is then available provided that the fingerprint cards were rejected by the FBI specifically because the fingerprints were illegible.

Again, there are CRD considerations connected with this amendment. As of October 1, 1982, there were significant enhancements made to CRD which included improvements to the way in which fingerprinting records are maintained. As a result, for those applications for which fingerprint cards have been processed three times since October 1, 1982, and rejected each time because the fingerprints are illegible, CRD will automatically make note of the exemption which is now available. For those applications for which one or more attempts to submit an acceptable set of fingerprints was made prior to October 1, 1982, proof of the prior attempt(s) (and rejection(s)) must be submitted to CRD. Copies of these records should be directed to the attention of H. Craig Thompson, Assistant Director, Special Registration Review, 1735 K Street, N.W., Washington, D.C. 20006.

Record Maintenance

Paragraph (d) states that every broker-dealer is required to maintain processed fingerprint cards and other substitute records and information received from the FBI, regardless of the method used to fulfill the requirement. All such records must be retained for a period of not less than three years after termination of an individual's employment or relationship with the broker-dealer.

As a result of the revisions to the rule, in addition to maintaining these records in its principal office, a broker-dealer must provide written evidence to its appropriate regional, branch or satellite office that a person's fingerprints have been processed by the FBI. It must also provide to that office a copy of any criminal history information received.

Another change permits a broker-dealer to reproduce and maintain on microfilm processed fingerprint cards, provided that the broker-dealer meets certain requirements concerning the storage and accessibility of these records.


Other Exemptions

One last note concerns requests for other exemptions from the fingerprinting requirement. The revised rule continues to provide that a broker-dealer may request exemptions for other persons by specific written application to the Commission (paragraph (a)(2)). As in the past, these requests will be considered by the Commission on a case-by-case basis.

* * *

Questions concerning these amendments may be directed to James J. Cummings, Associate Director, Membership, or H. Craig Thompson, Assistant Director, Special Registration Review at (202) 728-8105 and (202) 728-8362, respectively.

Sincerely,



Gordon S. Macklin
President

Attachment

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-19268]

Amendments Granting Additional Exemptions From Fingerprinting Requirement

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission today is adopting amendments to the rule that establishes a scheme for complying with the fingerprinting requirement contained in Section 17(f)(2) of the Securities Exchange Act of 1934 (the "Act") and for claiming exemptions from that requirement. The adopted rule simplifies the process of claiming exemptions and makes that process less costly and more efficient.

EFFECTIVE DATE: November 22, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas V. Sjoblom, Special Counsel, (202) 272-7345, or Ester Saverson, Jr., Staff Attorney, (202) 272-2906, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On April 29, 1982, the Commission published for comment in the *Federal Register*¹ Securities Exchange Act Release No. 18645 (April 14, 1982) (the "Proposal Release"), proposing amendments to Rule 17f-2 [17 CFR 240.17f-2], which describes procedures for complying with and claiming certain exemptions from the requirement of Section 17(f)(2) of the Act.² The proposed amendments to Rule 17f-2 as published for comment would (1) clarify the conditions necessary for claiming certain exemptions; (2) incorporate other exemptions previously granted by the Commission, on a case-by-case basis, pursuant to paragraph (g) of the rule; (3) clarify the subject matter content required in "Notices Pursuant to Rule 17f-2" ("Notices") claiming exemptions from the fingerprinting requirement; ³ (4) eliminate the Notice submission requirement and, instead,

require subject organizations to retain the Notice among their records; and (5) exempt from the requirement to prepare and retain a Notice any transfer agent that performs transfer agent functions only on behalf of itself as an issuer and that receives fewer than 500 items for transfer and fewer than 500 items for processing during any six consecutive months. As stated in the Proposal Release, the Commission anticipated that these amendments would eliminate certain ambiguities in the rule and would reduce the burden on the securities industry and the Commission associated with the submission and review of Notices and other requests for exemptions.

In response to the Proposal Release, the Commission received comments from five commentators; ⁴ they unanimously favored the proposed amendments, although certain modifications were suggested. In light of these comments, the Commission has modified the proposed amendments and, as modified, is adopting those amendments to the rule. Since the Commission is adopting the amendments as published for comment with only minor revisions, the remainder of this release will discuss those revisions along with certain other issues raised by the commentators. The text of Rule 17f-2, as amended today, is set forth at the end of this release. Guidance concerning the operation of the basic amendments can be found in the Proposal Release, except as expressly discussed below.

I. Public Comments and Modification to Rule 17f-2

A. Exemption from the Fingerprinting Requirement

The New York Stock Exchange, Inc., ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD") commented on various aspects of the exemption granted to certain persons associated with registered broker-dealers that are engaged exclusively in the sale of certain securities ordinarily not evidenced by certificates ("uncertificated securities")—namely shares of registered open-end management investment companies, variable contracts or interests in limited

partnerships, unit investment trusts or real estate investment trusts (paragraph (a)(1)(iii)). The NYSE also commented on the exemption available to persons whose fingerprint cards had been rejected by the FBI because of illegibility (paragraph (a)(1)(iv)).

1. *Broker-Dealers Engaged In Sale of Uncertificated Securities.* The NYSE questioned whether the availability of this exemption should be determined according to a broker-dealer's "business mix." The NYSE suggested that sales personnel who sell uncertificated securities should be exempt from the fingerprinting requirement, regardless of the business mix of the registered broker-dealer.

Section 17(f)(2) of the Act permits the Commission to exempt various "classes of persons" from the fingerprinting requirement, and Section 23(a)(1) of the Act permits the Commission, when making rules to implement the provisions of the Act, to classify persons, securities and transactions in various ways. In addition, Section 17(f)(2) provides that the Commission may exempt those persons upon any "specified terms, conditions and periods" deemed necessary, if not inconsistent with the public interest or the protection of investors. Accordingly, when determining whether a particular class of persons should be exempt from the fingerprinting requirement of Section 17(f)(2) of the Act, the Commission in the past has taken into account whether the particular class of persons has access to securities, monies or related original books and records. In determining whether that class of persons has access, the Commission has considered the nature of the securities handled by that class of persons and the business and operational characteristics of the broker-dealer. As a result, the Commission believes that, contrary to the views of the NYSE, the nature of a broker-dealer's business is relevant in identifying classes of persons for whom exemptions from the fingerprinting requirement are appropriate.

As noted in the Proposal Release, the exemption in paragraph (a)(1)(iii) incorporates an exemption granted in the past by the Commission, on a case-by-case basis, to a class of personnel in a certain class of broker-dealers, such as subsidiaries of insurance companies, that are engaged in a very limited securities business involving, for the most part, uncertificated securities. Unlike a general securities firm, the likelihood that non-fingerprinted sales or other personnel in such "limited-product" firms will have access to certificated securities, monies or the related original books and records is

¹ See 47 FR 18351 (April 29, 1982).

² Section 17(f)(2) of the Act provides, in pertinent part, that "[e]very member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency [collectively, 'subject organizations'] shall require that each of its partners, directors, officers, and employees [collectively, 'personnel'] be fingerprinted and shall submit such fingerprints, or cause the same to be submitted, to the Attorney General of the United States for identification and appropriate processing."

³ A suggested format for the Notice was published in the Proposal Release, 47 FR 18351 (April 29, 1982).

⁴ Comments were received from the New York Stock Exchange, Inc.; National Association of Securities Dealers, Inc.; North American Securities Administrators Association; Texas Instruments, Inc.; and American Council of Life Insurance. These comment letters are available for inspection and copying in the Commission's Public Reference Room, 450 5th Street, Washington, D.C. In addition, as required by Section 17A(d)(3)(A)(i) of the Act, the Commission, at least fifteen days prior to issuance of this release, consulted with and requested the views of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

remote.⁵ In contrast, in a broker-dealer engaged in a general securities business, certain nonfingerprinted personnel, including sales representatives who do not regularly have access to securities, monies or the related original books or records, may have or be able to obtain access to certificated securities, monies or the related original books and records and, for that reason, may create a type of security risk that the fingerprinting requirement could help circumscribe. Therefore, paragraph (a)(1)(iii) has been adopted without change in that respect.⁶

The NASD suggested that the bonding/insurance requirement in paragraph (a)(1)(iii)(C) would require certain broker-dealers, which are not otherwise required to carry fidelity bonding protection,⁷ to obtain blanket or fidelity bonding protection. In contrast, the NYSE applauded the idea and suggested that anyone "engaged in the sale of any securities, having access to monies, securities or original books and records or having any direct supervisory responsibility in these areas should be subject to a bonding requirement."⁸

The bonding/insurance requirement (as originally proposed in paragraph (a)(1)(iii)) was not intended to impose fidelity bonding on broker-dealers not required to carry that coverage. A broker-dealer claiming an exemption from the fingerprinting requirement under paragraph (a)(1)(iii) for a class of personnel may elect to carry either insurance or bonding, and that coverage need only protect it against customer losses caused by the fraudulent or criminal acts of any of its officers or employees. Thus, paragraph (a)(1)(iii)(C) would permit insurance coverage less extensive than the NASD bonding requirements.⁹

In any event, the Commission believes that, consistent with the regulatory

policy entailed in Section 17(f)(2) of the Act, a limited-product broker-dealer may legitimately be required to choose between the costs of fingerprinting its personnel and the expense associated with insuring the firm against wrongful customer losses. The importance of customer protection warrants at least that much regulatory intervention. Moreover, while the requirement to have insurance or bonding protection might seem to introduce a new requirement on non-SIPC member broker-dealers, every limited-product firm to date that has requested and obtained an exemption from the fingerprinting requirement has had insurance or bonding as a safeguard already in place for the protection of customer funds and securities. Accordingly, the Commission has concluded that the added expense associated with obtaining bonding or insurance to claim an exemption under new paragraph (a)(1)(iii)(C) is both minimal and justified.¹⁰

The NASD also suggested that paragraph (a)(1)(iii)(C) should expressly recognize that, under NASD rules, partners and directors, who otherwise do not serve as officers or employees of a broker-dealer, usually are excluded from the firm's blanket fidelity bonding protection¹¹ and that the words "losses to customers" should not include losses due to poor business judgment or advice given by associated persons of a broker-dealer, but instead should be limited to losses arising from fraudulent or criminal acts of associated persons.¹² While the Commission believes that the bonding/insurance requirement is an important safeguard when FBI processing of fingerprints does not occur, the class of persons subject to the bonding-insurance condition can be narrowed, as the NASD suggests, without lessening investor protection. To accomplish that end, the Commission is changing the language in paragraph (a)(1)(iii)(C) to require that broker-dealers maintain insurance or bonding coverage only for those partners,

protection is available, however, only when a broker-dealer is forced to liquidate; it affords no protection for customer losses caused by the fraudulent or criminal acts of personnel when the firm continues in business.

⁵ See note 4 *supra*.

⁶ The condition in paragraph (a)(1)(iii)(C), however, will be met if the firm carries either insurance or bonding. If bonding is selected, protection need only cover, in addition to fidelity protection, losses occurring from forgery, alteration (including check forgery) and securities loss

(including forgery) due to fraudulent trading or other criminal acts.

¹⁰ The Commission also has cited blanket fidelity bonding protection covering all officers, employees and agents as a factor to be considered in granting exemptions from other rules under the Act, such as the financial responsibility rules, to insurance companies registered as broker-dealers and engaged in the distribution of variable annuities. See *e.g.*, Securities Exchange Act Release No. 83889 (August 28, 1968).

directors, officers and employees "for whom an exemption is being claimed under paragraph (a)(1)(iii)." Therefore, under this language change, a broker-dealer will not be subject to the insurance or bonding condition with respect to persons who qualify for the general exemption, such as outside directors or partners, in paragraph (a)(1)(i).

2. *Illegible Fingerprints.* The NYSE suggested that proposed paragraphs (a)(1)(iv)(A) and (a)(1)(iv)(B) should be collapsed into one provision because the two paragraphs are analytically similar. The commission agrees that the specific requirements in proposed paragraph (a)(1)(iv)(B) relate to the general condition stated in proposed paragraph (a)(1)(iv)(A). New paragraph (a)(1)(iv)(A), therefore, contains both a subjective standard, pursuant to which the availability of an exemption will be tested by the good faith efforts of the subject organization, and an objective standard, which will require a subject organization to obtain a complete set of fingerprints (as originally proposed in paragraph (a)(1)(iv)(A)), to have the fingerprints rolled by a person competent to do so, and to have those fingerprints submitted to the FBI for processing (as originally proposed in paragraph (a)(1)(iv)(B)).

The Commission also is adding language to paragraph (a)(1)(iv) to require expressly that the fingerprint cards must be rejected by the FBI because the fingerprints were in fact illegible. This concept was merely implicit in the originally proposed amendments.

B. Record Maintenance

1. *Subsection 240.17f-2(d).* The NYSE suggested that subsection (d), regarding record maintenance, include a provision that would allow subject organizations "or their approved designees" to maintain the records required by subsection (d). The Commission believes it would be inefficient, time consuming and costly to both the subject organization and the designated examining authority to allow outside parties, other than self-regulatory organizations ("SROs"), to act as recordkeepers for records required to be kept by subsection (d). Because several SROs have oversight responsibilities for broker-dealers, however, the Commission does believe that there may be both economic and regulatory benefits to the securities industry in allowing an SRO that is also the designated examining authority for a

¹¹ The blanket fidelity bond required by the NASD covers officers and employees only. See NASD Manual (CCI) ¶ 2182A(1) (Appendix C).

¹² The Commission concurs and, accordingly, has revised the language in paragraph (a)(1)(iii)(C) to limit covered losses to those caused by the fraudulent and criminal acts of personnel.

⁵ See Proposal Release, at 10, 13-14.

⁶ Use of this exemption for sales personnel of limited-product broker-dealers will be monitored as part of the examination programs of the self-regulatory organizations and the Commission. In addition, the Commission, in appropriate cases, may deny claims for exemptions under this subparagraph. See § 240.17f-2(e)(1)(iii). For example, the Commission believes it usually would be inappropriate to claim an exemption on the basis that personnel in certain departments of the firm (*e.g.*, the departments that sell mutual fund shares or variable annuities) do not have access to securities, monies and related books and records by asserting that those departments are physically separate from the departments engaged in the general securities business of the firm.

⁷ The NASD does not require non-SIPC member broker-dealers to carry fidelity bonding protection. See, *e.g.*, NASD Manual (CCI) ¶s 2182 & 2182A (Appendix C). Section 3(a)(2)(A) of the Securities Investor Protection Act of 1970 ("SIPA") identifies broker-dealers that are not required to be members of SIPC. These include, among others, broker-dealers engaged exclusively in (1) the distribution of shares of registered open-end management investment companies or unit investment trusts; (2) the sale of variable annuities; or (3) the business of insurance. See 15 U.S.C. 78ccc(a)(2)(A). SIPA

broker-dealer to act as a repository of fingerprint cards or substitute records for that broker-dealer. Paragraph (d)(2) has been added, therefore, to provide that a broker-dealer's designated examining authority may provide for the storage and maintenance of records required to be kept by that subsection.¹³

Before an SRO may store and maintain those records for subject organizations, however, several concerns must be addressed by an SRO proposing to act as a recordkeeper under this rule. These concerns may be easily addressed in an amendment to the SRO's fingerprinting plan.¹⁴ Because the duty to fingerprint personnel and have those fingerprints processed by the FBI is that of the broker-dealer, an SRO must design a plan that will provide to subscribing broker-dealers copies of all information received from the FBI regarding their personnel, especially any information regarding a person's criminal history record. In addition, under this amendment, an SRO would not only act as a conduit for the transmission of fingerprint cards but also act as a repository. In that regard, the SRO plan must ensure that any added responsibility does not impact adversely on the SRO's obligations under the Act to operate its trading markets efficiently. Finally, the SRO plan must offer this service to its members on a voluntary basis.

In addition, the Commission, in an effort to reduce the cost of maintenance and the amount of paper required to be kept by subject organizations, has determined that processed fingerprint cards may be reproduced and maintained on microfilm. The FBI has informed the Commission that clear and legible fingerprints can be obtained from a clear facsimile enlargement of a fingerprint card reproduced from microfilm. The Commission, therefore, is adding new paragraph (d)(3) that allows processed fingerprint cards as well as the other records required by subsection

¹³ Records regarding personnel of registered transfer agents and registered clearing agencies, however, must be maintained by those organizations at their principal offices pursuant to paragraph (d) (1) and (3). Neither the Commission nor any of the federal bank regulatory agencies will act as repositories for those records.

¹⁴ Currently, all SROs have fingerprinting plans approved by the Commission pursuant to Rule 17f-2(c) under the Act. None of the plans, however, provide any SRO with the authority to act as a recordkeeper for records required to be kept by subsection (d). Therefore, before a designated examining authority can act as a repository of records required to be kept by subsection (d), it must have on file a plan that provides for the responsible storage and maintenance of those records and that plan must be approved by the Commission pursuant to Rule 17f-2(c) under the Act.

(d) to be maintained on microfilm, provided that the subject organization: (1) Has facilities for the immediate and legible projection of that microfilm and for producing clear and legible facsimile enlargements; (2) indexes and files the films in a manner as to permit the immediate location of any particular record; (3) is ready immediately to provide a clear facsimile enlargement of any records requested by the Commission, the appropriate regulatory agency (if not the Commission) or the designated examining authority; and (4) stores separately from the original microfilm records a copy of the microfilm records.

C. Rules 17a-3(a)(15) and 17a-4(e)(3)

Rule 17a-3(a) [17 CFR 240.17a-3(a)] enumerates the records that must be made and kept current by certain members of national securities exchanges and other brokers and dealers. Since subsection (e) of Rule 17f-2 will require the preparation, maintenance and continual updating of Notices claiming exemptions, the Commission is amending Rule 17a-3(a) by adding new paragraph (a)(15) to include the Notice required under subsection (e) of Rule 17f-2.

Rule 17a-4 requires certain members of national securities exchanges and other brokers and dealers to maintain and preserve certain records for certain specified periods of time. Subsection (e) of Rule 17f-2 will require the maintenance and preservation of certain records. The Commission, therefore, is amending Rule 17a-4(e)(3) to reflect the record retention requirement under subsection (e) of Rule 17f-2.

II. Regulatory Flexibility Act Certification

Pursuant to 15 U.S.C. 605(b), the Chairman of the Commission has certified that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. The Commission has not received any comments concerning the Chairman's certification.

III. Paperwork Reduction Act

The information collection required by this rule has been cleared by the Office of Management and Budget and has been assigned clearance No. 3235-0031.

IV. Statutory Basis

The following amendments are being adopted pursuant to Sections 2, 17(a), 17(f)(2) and 23(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78b, 78q(a), 78q(f)(2), 78w(a)]. The Commission finds that there will be no

burden upon competition imposed by these revisions and amendments to Rule 17f-2, that they are necessary and appropriate for the protection of investors, and that they are in the public interest.

As required by Section 17(f)(2) of the Act, the Commission also finds that the amendments to Rule 17f-2, granting additional exemptions and eliminating the requirement that Notices be submitted to the Commission for formal staff review and retention, are not inconsistent with the public interest or the protection of investors. The granting of additional exemptions for certain personnel of registered broker-dealers engaged in limited securities activities will not adversely affect the public interest or the protection of investors because those persons claimed as exempt do not regularly have access to the handling or processing of securities monies or the original books and records relating thereto. With respect to the elimination of the requirement to submit Notices to the Commission, subject organizations will still be required to prepare Notices and keep those Notices on their premises in order to monitor the use of exemptions as well as the physical security systems of the subject organizations.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

Dated: November 18, 1982.

By the Commission.

George A. Fitzsimmons,
Secretary.

Text of Proposals

In accordance with the foregoing, the Commission amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

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

1. By revising § 240.17f-2 to read as follows:

§ 240.17f-2 Fingerprinting of securities industry personnel.

(a) *Exemptions for the fingerprinting requirement.* Except as otherwise provided in paragraph (a)(1) or (a)(2) of this section, every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency shall require that each of its partners, directors, officers and employees be fingerprinted and shall submit, or cause to be submitted, the fingerprints of such persons to the Attorney General of the United States or

its designee for identification and appropriate processing.

(1) *Permissive exemptions.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency may claim one or more of the exemptions in paragraph (a)(1) (i), (ii), (iii) or (iv) of this section; *Provided*, That all the requirements of paragraph (e) of this section are also satisfied.

(i) *Member of a national securities exchange, broker, dealer or registered clearing agency.* Every person who is a partner, director, officer or employee of a member of a national securities exchange, broker, dealer, or registered clearing agency shall be exempt if that person:

(A) Is not engaged in the sale of securities;

(B) Does not regularly have access to the keeping, handling or processing of (1) securities, (2) monies, or (3) the original books and records relating to the securities or the monies; and

(C) Does not have direct supervisory responsibility over persons engaged in the activities referred to in paragraphs (a)(1)(i) (A) and (B) of this section.

(ii) *Registered Transfer Agents.* Every person who is a partner, director, officer or employee of a registered transfer agent shall be exempt if that person:

(A) Is not engaged in transfer agent functions (as defined in section 3(a)(25) of the Securities Exchange Act of 1934) or activities incidental thereto; or

(B) Meets the conditions in paragraphs (a)(1)(i) (B) and (C) of this section.

(iii) *Registered broker-dealers engaged in sales of certain securities.* Every partner, director, officer and employee of a registered broker or dealer who satisfies paragraph (a)(1)(i)(B) of this section shall be exempt if that broker or dealer:

(A) Is engaged exclusively in the sale of shares of registered open-end management investment companies, variable contracts, or interests in limited partnerships, unit investment trusts or real estate investment trusts; *Provided*, That those securities ordinarily are not evidenced by certificates;

(B) Is current in its continuing obligation under §§ 240.15b1-1 and 15b3-1(b) to update Item 10 of Form BD to disclose the existence of any statutory disqualification set forth in sections 3(a)(39), 15(b)(4) and 15(b)(6) of the Securities Exchange Act of 1934;

(C) Has insurance or bonding indemnifying it for losses to customers caused by the fraudulent or criminal acts of any of its partners, directors, officers or employees for whom an

exemption is being claimed under paragraph (a)(1)(iii) of this section; and

(D) Is subject to the jurisdiction of a state insurance department with respect to its sale of variable contracts.

(iv) *Illegible fingerprint cards.* Every person who is a partner, director, officer or employee shall be exempt if that member of a national securities exchange, broker, dealer, registered transfer agent or registered clearing agency, on at least three occasions:

(A) Attempts in good faith to obtain from such person a complete set of fingerprints acceptable to the Attorney General or its designee for identification and appropriate processing by requiring that person to be fingerprinted, by having that person's fingerprints rolled by a person competent to do so and by submitting the fingerprint cards for that person to the Attorney General of the United States or its designee in accordance with proper procedures;

(B) Has that person's fingerprint cards returned to it by the Attorney General of the United States or its designee without that person's fingerprints having been identified because the fingerprints were illegible; and

(C) Retains the returned fingerprint cards and any other required records in accordance with paragraph (d) of this section and §§ 240.17a-3(a)(13), 17a-4(e)(2) and 17Ad-7(e)(1) under the Securities Exchange Act of 1934.

(2) *Other exemptions by application to the Commission.* The Commission, upon specified terms, conditions and periods, may grant exemptions to any class of partners, directors, officers or employees of any member of a national securities exchange, broker, dealer, registered transfer agent or registered clearing agency, if the Commission finds that such action is not inconsistent with the public interest or the protection of investors.

(b) *Fingerprinting pursuant to other law.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency may satisfy the fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 as to any partner, director, officer or employee, if:

(1) The person, in connection with his or her present employment with such organization, has been fingerprinted pursuant to any other law, statute, rule or regulation of any state or federal government or agency thereof;

(2) The fingerprint cards for that person are submitted, or are caused to be submitted, to the Attorney General of the United States or its designee for identification and appropriate processing, and the Attorney General or

its designee has processed those fingerprint cards; and

(3) The processed fingerprint cards or any substitute records, together with any information received from the Attorney General or its designee, are maintained in accordance with paragraph (d) of this section.

(c) *Fingerprinting plans of self-regulatory organizations.* The fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 may be satisfied by submitting appropriate and complete fingerprint cards to a registered national securities exchange or to a registered national securities association which, pursuant to a plan filed with, and declared effective by, the Commission, forwards such fingerprint cards to the Attorney General of the United States or its designee for identification and appropriate processing. Any plan filed by a registered national securities exchange or a registered national securities association shall not become effective, unless declared effective by the Commission as not inconsistent with the public interest or the protection of investors; and, in declaring any such plan effective, the Commission may impose any terms and conditions relating to the provisions of the plan and the period of its effectiveness as it may deem necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

(d) *Record maintenance.*—(1) *Maintenance of processed fingerprint cards and other related information.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency shall maintain the processed fingerprint card or any substitute record when such card is not returned after processing, together with any information received from the Attorney General or its designee, for every person required to be fingerprinted under section 17(f)(2) of the Securities Exchange Act of 1934 and for persons who have complied with this section pursuant to paragraphs (b) or (c) of this section. Every substitute record shall state the name of the person whose fingerprint card was submitted to the Attorney General of the United States, the name of the member of a national securities exchange, broker, dealer, registered transfer agent or registered clearing agency that submitted the fingerprint card, the name of the person or organization that rolled the fingerprints, the date on which the fingerprints were rolled, and the date

the fingerprint card was submitted to the Attorney General of the United States. The processed fingerprint card and every other substitute record containing the information required by this paragraph, together with any information received from the Attorney General of the United States, shall be kept in an easily accessible place at the organization's principal office and shall be made available upon request to the Commission, the appropriate regulatory agency (if not the Commission) or other designated examining authority. The organization's principal office must provide to the regional, branch or satellite office actually employing the person written evidence that the person's fingerprints have been processed by the FBI, and must provide to that office a copy of any criminal history record information received from the FBI. All fingerprint cards, records and information required to be maintained under this paragraph shall be retained for a period of not less than three years after termination of that person's employment or relationship with the organization.

(2) *Record maintenance by designated examining authorities.* The records required to be maintained and preserved by a member of a national securities exchange, broker, or dealer pursuant to the requirements of paragraph (d)(1) of this section may be maintained and preserved on behalf of that member, broker, or dealer by a self-regulatory organization that is also the designated examining authority for that member, broker or dealer, *Provided* That the self-regulatory organization has filed in accordance with § 240.17f-2(c) a fingerprinting plan or amendments to an existing plan concerning the storage and maintenance of records and that plan, as amended, has been declared effective by the Commission, and *Provided* *Further* That:

(i) Such records are subject at any time, or from time to time, to reasonable periodic, special or other examinations by representatives of the Commission; and

(ii) The self-regulatory organization furnishes to the Commission, upon demand, at either the principal office or at the regional office complete, correct and current hard copies of any and all such records.

(3) *Reproduction of records on microfilm.* The records required to be maintained pursuant to paragraph (d)(1) of this section may be produced or reproduced on microfilm and preserved in that form. If such microfilm substitution for hard copy is made by a member of a national securities exchange, broker, dealer, registered

transfer agent or registered clearing agency, or by a self-regulatory organization maintaining and storing records pursuant to paragraph (d)(2) of this section, it shall at all times:

(i) Have available for examination by the Commission, the appropriate regulatory agency (if not the Commission) or other designated examining authority, facilities for the immediate, easily readable projection of the microfilm and for the production of easily readable and legible facsimile enlargements;

(ii) File and index the films in such a manner as to permit the immediate location and retrieval of any particular record;

(iii) Be ready to provide, and immediately provide, any facsimile enlargement which the Commission, the appropriate regulatory agency (if not the Commission) or other designated examining authority by their examiners or other representatives may request; and

(iv) For the period for which the microfilm records are required to be maintained, store separately from the original microfilm records a copy of the microfilm records.

(e) *Notice requirement.* Every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency that claims one or more of the exemptions in paragraph (a)(1) of this section shall make and keep current a statement entitled "Notice Pursuant to Rule 17f-2" containing the information specified in paragraph (e)(1) below.

(1) *Contents of statement.* The Notice required by paragraph (e) of this section shall:

(i) State the name of the organization and state whether it is a member of a national securities exchange, broker, dealer, registered transfer agent, or registered clearing agency;

(ii) Identify by division, department, class, or name and position within the organization all persons who are claimed to have satisfied the fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 pursuant to paragraph (b) of this section;

(iii) Identify by division, department, class, title or position within the organization all persons claimed to be exempt under paragraphs (a)(1)(i)-(iii) of this section, and identify by name all persons claimed to be exempt under paragraph (a)(1)(iv). Persons identified under this paragraph (e)(1)(iii) shall be exempt from the requirement of section 17(f)(2) of the Securities Exchange Act of 1934 unless notified to the contrary by the Commission;

(iv) Describe, in generic terms, the nature of the duties of the person or classes of persons, and the nature of the functions and operations of the divisions and departments, identified as exempt in paragraph (e)(1)(iii) above; and

(v) Describe the security measures utilized to ensure that only those persons who have been fingerprinted in accordance with the fingerprinting requirement of section 17(f)(2) of the Securities Exchange Act of 1934 or who are exempt under paragraph (a)(1)(iv) of this section have access to the keeping, handling or processing of securities or monies or the original books and records relating thereto.

(2) *Record maintenance.* A copy of the Notice required to be made and kept current under paragraph (e) of this section shall be kept in an easily accessible place at the organization's principal office and at the office employing the persons for whom exemptions are claimed and shall be made available upon request for inspection by the Commission, appropriate regulatory agency (if not the Commission) or other designated examining authority.

(3) *Exemption from the notice requirement.* A registered transfer agent that performs transfer agent functions only on behalf of itself as an issuer and that receives fewer than 500 items for transfer and fewer than 500 items for processing during any six consecutive months shall be exempt from the Notice requirement of paragraph (c) of this section.

2. By adding paragraph (a)(15) to § 240.17a-3 to read as follows:

§ 240.17a-3 Records to be made by certain exchange members, brokers and dealers.

* * * * *

(a) * * *

(15) Records required to be maintained pursuant to paragraph (e) of § 240.17f-2.

3. By revising paragraph (e)(3) of § 240.17a-4 to read as follows:

§ 240.17a-4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(e) * * *

(3) All records required pursuant to paragraph (a)(15) of § 240.17a-3 for the life of the enterprise.

* * * * *

4. By revising paragraph (e)(2) of § 240.17Ad-7 to read as follows:

§ 240.17Ad-7 Record retention.

* * * * *

(e) * * *

(2) All records required pursuant to § 240.17f-2(e).

* * * * *

NASD

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

notice to members 83-4

January 20, 1983

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

RE: Real-Time Transaction Reporting in Additional
100 NASDAQ NMS Securities Effective February 8, 1983

On February 8, 1983, 100 additional NASDAQ securities will enter the NASDAQ National Market System (NMS). As a result, real-time trade reporting will be required in these securities commencing on that date.

Of these securities, 50 met the Tier 1 criteria as stated in SEC Rule 11Aa2-1 as of the December 31, 1982, qualification date and, therefore, are mandated to be included in the NMS. The remaining 50 securities were chosen from applications received from those companies with issues satisfying the Tier 2 criteria contained in Rule 11Aa2-1 and ranked in the top 75 percent of NASDAQ securities in terms of dollar volume.

The NMS Securities Qualifications Committee adopted a formula for selecting the 50 securities from among the 260 applications which were received. This formula, which incorporates balance sheet and market characteristics, ranked the 260 companies in descending order in the following six categories:

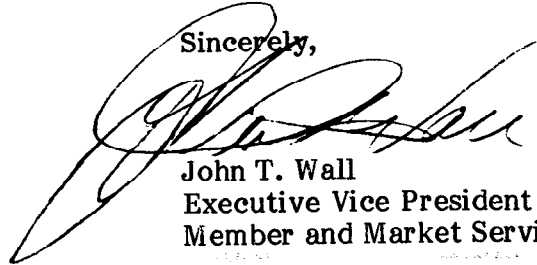
1. Dollar Trading Volume
2. Share Volume
3. Stock Price
4. Number of Publicly Held Shares
5. Net Worth
6. Tangible Assets

A rank total was then established for each security by adding together the respective rank figures from each of the six categories noted above. The issues were then ranked in ascending order based on these rank totals. Companies were selected from this list in such a manner as to provide a cross-section of industries and companies located throughout the country. In addition, the number, location and dispersion of market makers in each issue was weighed in making the selections.

The list of the 100 securities that will enter the NMS on February 8 is attached.

Any questions regarding either the Tier 1 or Tier 2 criteria should be directed to Gary W. Guinn, Assistant Director, NASDAQ Operations, at (202) 728-8052. Questions pertaining to the trade reporting rules should be directed to Leon Bastien (202) 728-8202.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Wall", is written over the typed name and title.

John T. Wall
Executive Vice President
Member and Market Services

Attachment

ADDITIONS TO NASDAQ NMS AS OF FEBRUARY 8TH

ADAC	ADAC Laboratories
ALEX	Alexander & Baldwin, Inc.
ALBN	Allied Bancshares, Inc.
ALTO	Altos Computer Systems
ABIG	American Bankers Insurance Group
ANAT	American National Insurance Company
ANDW	Andrew Corporation
AMAT	Applied Materials, Inc.
ASTR	Astrosystems, Inc.
ATRC	Atlantic Research Corporation
BONE	Banc One Corporation
BBNK	BayBanks, Inc.
BEKN	Bekins Company (The)
ATBL	Bliss (A.T.) and Company, Inc.
BOBE	Bob Evans Farms, Inc.
CCCI	C3, Inc.
CMIC	California Microwave, Inc.
CARL	Carl Karcher Enterprises, Inc.
CCBL	C-COR Electronics, Inc.
CHRS	Charming Shoppes, Inc.
CIFR	Cipher Data Products, Inc.
CSGA	Citizens and Southern Georgia Corporation
CTYF	City Federal Savings and Loan Association
COBE	Cobe Laboratories, Inc.
CCPA	Communications Corporation of America
CCUP	Compucorp
CCTC	Computer & Communications Technology Corporation
CCPT	Concept, Inc.
CCITS	Consolidated Capital Income Trust
CRVS	Corvus Systems, Inc.
DDCC	Decision Data Computer Corporation
ELRC	Electro-Rent Corporation
EQTY	Equity Oil Company
ESCC	Evans & Sutherland Computer Corporation
FFED	Fidelity Federal Savings and Loan Association
FEXC	First Executive Corporation
FONR	Fonar Corporation
FOUR	Forum Group, Inc.
FULL	Fuller (H.B.) Company
GENE	Genentech, Inc.
GULD	Goulds Pumps, Inc.
HBOC	HBO & Company
HDYN	Healthdyne, Inc.
HOMD	Home Depot, Inc. (The)
HHCA	Home Health Care of America, Inc.
HOOV	Hoover Company (The)

HYST	Hyster Company
INCM	InteCom, Inc.
INMA	Intermagnetics General Corporation
INTL	Inter-Tel, Inc.
KEMC	Kemper Corporation
KNDR	Kinder-Care Learning Centers, Inc.
LEDA	Lee Data Corporation
LIEB	Liebert Corporation
LFBR	Longview Fibre Company
MDCO	M.D.C. Corporation
MANT	Manitowoc Company, Inc. (The)
MOGC	McCormick Oil & Gas Company
MCDY	Microdyne Corporation
MICS	Micom Systems, Inc.
MDWY	Midway Airlines, Inc.
MONC	Monarch Capital Corporation
MMIC	Monolithic Memories, Inc.
NMIC	National Micronetics, Inc.
NOBE	Nordstrom, Inc.
NWNG	Northwestern Natural Gas Company
OLYB	Olympia Brewing Company
ONIX	Onyx + I.M.I., Inc.
OXCO	Oxoco
PDPR	Pandick Press, Inc.
PEPL	Peoples Restaurants, Inc.
PLIT	Petrolite Corporation
PHNA	Philadelphia National Corporation
PITS	Pittsburgh National Corporation
PTNX	Printronic, Inc.
QUAD	Quadrex Corporation
RPOW	RPM, Inc.
RBAN	Rainier Bancorporation
RIVL	Rival Manufacturing Company
ROCK	Rockor, Inc.
ROUS	Rouse Company (The)
SCIS	SCI Systems, Inc.
SRIC	SRI Corporation
SBIG	Seibels Bruce Group, Inc. (The)
SMED	Shared Medical Systems Corporation
SHON	Shoneys, Inc.
SMSC	Standard Microsystems Corporation
TELE	Telecom Plus International, Inc.
TPIX	Telepictures Corporation
TRLS	Thousand Trails, Inc.
UTVI	United Television, Inc.
UHSIB	Universal Health Services, Inc.
VCTR	Vector Graphic, Inc.
WETT	Wetterau, Inc.
WMTT	Willamette Industries, Inc.
WILF	Wilson Foods Corporation
WILN	Wilson (H.J.) Company, Inc.
WTHG	Worthington Industries, Inc.
XICO	Xicor, Inc.
XIDX	Xidex Corporation

NASD

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

notice to members 83-5

January 27, 1983

TO: All NASD Members and Municipal Securities Bank Dealers
ATTN: All Operations Personnel
RE: Holiday Settlement Schedule — February, 1983

Securities markets and the NASDAQ System will be closed on Monday, February 21, 1983, in observance of Washington's Birthday. "Regular-Way" transactions made on the business days preceding that day will be settled according 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>	
February	14	February	22	February	24
	15		23		25
	16		24		28
	17		25	March	1
	18		28		2
	22	March	1		3

* Pursuant to Section 4(c)(2) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a 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 4(c)(6), make application to extend the time period specified. The date members must take such action is shown in the column entitled "Regulation T Date."

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

Questions concerning the application of these settlement dates may be directed to the Uniform Practice Department at (212) 839-6257.

* * * *

NASD

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

notice to members 83-6

January 31, 1983

TO: All NASD Members

RE: Proposed Amendments to the Uniform Practice Code to Extend Applicability of the Code to Secondary Market Transactions in Unit Investment Trust Securities

Enclosed herewith are proposed amendments to the Association's Uniform Practice Code ("Code") which were approved by the Board of Governors at its November 19, 1982, meeting. The amendments are being submitted to the membership for comment. After the comment period has expired, the Board of Governors will again review the proposal taking into consideration the comments received, and will thereafter submit the proposals as may be amended in response to the comments received, to the Securities and Exchange Commission for approval.

BACKGROUND AND EXPLANATION OF PROPOSALS

The amendments to the Uniform Practice Code are designed to extend the applicability of the Code to secondary market transactions in unit investment trust securities (UITs). A Subcommittee of the Uniform Practice Committee, which consisted of a panel of experts in the field of unit investment trusts, was established to study the feasibility of applying the Code to UITs and to develop the recommended amendments.

The original proposal to extend the scope of the Code was urged by member firms because of the increased popularity and trading activity in this investment product. In particular, it was perceived that a substantial "fail-to-deliver" problem existed in the secondary market for UITs. Historically, the Code has been applied only to corporate equity and debt securities and not to securities registered under the Investment Company Act of 1940.

The Subcommittee's review of the subject resulted in the conclusion that UPC coverage of UITs was feasible and desirable. The Subcommittee then undertook a section-by-section analysis of the Code to determine what, if any, changes were appropriate to extend the coverage of the Code to UITs. The amendments to the Code resulting from this work will provide industry-wide uniformity in trading and trade processing for unit investment trust securities.

The following is a brief description of the proposed amendments to the Code. The full text of the amendments is attached as Exhibit A.

- In Section 1(a) of the Code, the "secondary market" has been added to express more clearly the fact that only aftermarket transactions are covered by the Code and that its provisions are not applicable to the original distribution process of new issues.
- A new Section 1(a)(iv) has been added which generally excludes redeemable securities from coverage under the Code. The exception is made, however, for all secondary market transactions in UITs except redemptions.
- Old Section 6(b) defining "record date" has been redesignated Section 3(d) and amended to specifically include unit investment trust securities and principal payments on these securities.
- Non-substantive language has been added in Section 5(b)(3) to clarify the process for declaration of ex-dividend dates on securities of open-end management investment companies.
- Language has been added to Section 10 relating to descriptions of securities in confirmations and comparisons to include the payment option on unit investment trust securities.
- A new Section 17(A) is being added to define the unit of delivery for unit investment trust securities as a single unit of the trust.
- In Sections 46(a), (c) and (d), the term "bond" has been deleted and replaced with the word "security" in order to expand the application of those sections dealing with the computation of accrued interest for unit investment trust securities.
- Sections 48(b) and (d) have been amended to specifically refer to unit investment trust securities in the definition of "due-bill checks."
- In Section 49(c), language has been added to specifically refer to unit investment trust securities in the procedure for claiming interest payments.
- Language has been added in Section 56(a) to specifically refer to unit investment trust securities in the procedure for reclamations.
- Old Section 59(c) has been redesignated Section 59(c)(i) and a new Section 59(c)(ii) has been added to provide a buy-in procedure for unit investment trust securities. In essence,

these provisions allow a purchaser of securities which have not been delivered either to buy the securities in, to agree upon a substitution of securities or, if both of these options are unavailable, to effect a repurchase of the securities. These procedures are comparable to the buy-in provisions of Rule G-12 of the Municipal Securities Rulemaking Board.

* * *

In a related matter, the Board of Governors has also approved an amendment to the Uniform Practice Code exempting secondary market transactions in Direct Participation Program securities from application of the Code. This amendment is contained in a new Section 1(a)(v) of the Code and was based upon a recommendation from the Association's Real Estate and Direct Participation Program Committees. Although the Code has not been applied to such transactions in the past, the Board believes it appropriate to specifically state this in light of the UITS amendments.

* * *

All comments relating to the amendments should be addressed to S. William Broka, Corporate Secretary, NASD, 1735 K Street, N.W., Washington, D.C. 20006, and received by February 21, 1983. Any questions should be addressed to James R. Yore, Uniform Practice Department, at (212) 839-6255.

Sincerely,



John T. Wall
Executive Vice President
Member and Market Services

Attachment

NASD UNIFORM PRACTICE CODE AMENDMENTS
UNIT INVESTMENT TRUST SECURITIES

(Deletions: Overstriked
Additions: Underscored)

Sec. 1 SCOPE OF UNIFORM PRACTICE CODE

(a) All over-the-counter ~~secondary~~ market transactions in securities between members shall be subject to the provisions of this Code except:

(i), (ii), (iii) - Unchanged

(iv) transactions in redeemable securities issued by companies registered under the Investment Company Act of 1940; provided however that the Code shall apply to secondary market transactions between members in any security issued by a registered investment company classified as a "unit investment trust" under Section 4 of the Investment Company Act. Redemptions of securities directly by the trustee of the unit investment trust are not transactions between members for purposes of this subsection.

(v) transactions in Direct Participation Program securities as defined in Article III, Section 34 of the Association's Rules of Fair Practice.

(b) and (c) - Unchanged

Sec. 2 Unchanged

Sec. 3 DEFINITIONS

(a), (b), (c) - Unchanged

Former Section 6(b) would be redesignated as Section 3(d) and amended as follows:

(d) As used in this Code Section the term "record date" means the date fixed by the trustee, registrar, paying agent or issuer for the purpose of determining the holders of bonds, ~~or~~ similar evidences of indebtedness or unit investment trust securities entitled to receive interest or principal payments.

Sec. 4 Unchanged

Sec. 5 TRANSACTIONS IN SECURITIES "EX-DIVIDEND,"
"EX-RIGHTS" OR "EX-WARRANTS"

(a) - Unchanged

(b)(1) and (2) - Unchanged

(b)(3) Ex-dividend dates for investment company shares

Notwithstanding the above, the ex-dividend date on stock securities of an open-end management investment company shall be the date designated by the issuer or its principal underwriter.

(c) - Unchanged

Sec. 6 TRANSACTIONS "EX-INTEREST" IN BONDS WHICH ARE DEALT IN
"FLAT"

(a) Unchanged

(b) Delete - Redesignated and amended as Section 3(d).

Sec. 7 - 9 - Unchanged

Sec. 10 DESCRIPTION OF SECURITIES

Confirmations or comparisons shall include, in addition to an adequate description of the security, (which shall include payment option on a unit investment trust series) the price at which the transaction was made and any other information deemed necessary to insure that the buyer and seller agree as to details of the transaction. Such "other information" should include, if applicable, but need not be limited to, such phrases as "ex-warrants," "ex-stock," "registered," "flat," "part-redeemed," "Canadian funds," "with proxy," etc.

Sec. 11 - 17 - Unchanged

Sec. 17A - Units of Delivery-Unit Investment Trust Securities.

The minimum unit of delivery for Unit Investment Trust Securities shall be a single unit of the trust.

Sec. 18 - 45 - Unchanged

Sec. 46 COMPUTATION OF INTEREST

(a) In the settlement of contracts in interest - paying securities other than for "cash," there shall be added to the dollar price interest at the rate specified in the bond security, which shall be computed up to but not including the fifth business day following the date of the transaction. In transactions for "cash," interest shall be added to the dollar price at the rate specified in the bond security up to but not including the date of transaction.

- (b) Unchanged
- (c) **Registered bonds Securities traded "and interest"**

When a delivery of a **registered bond security** traded "and interest" is made between the record date fixed for the purpose of determining the holder entitled to receive interest and the interest payment date, a deduction equivalent to the full amount of the interest to be paid **by the obligor** shall be made on settlement.

- (d) **Registered bonds Securities traded "flat"**

When delivery of a **registered bond security** traded "flat" is made after the record date fixed for the purpose of determining the holder entitled to receive interest, in the settlement of a contract made prior to the date on which the **issue of bonds security** was traded "ex-interest," a due-bill check for the full amount of the interest to be paid **by the obligor** shall accompany the delivery.

- (e) and (f) - Unchanged

Sec. 47 Unchanged

Sec. 48 DUE-BILLS AND DUE-BILL CHECKS

- (a) Unchanged
- (b) Definiton of due-bill checks

The term "due-bill checks" as used in this Section means a due-bill in the form of a check payable on the date of payment of a cash dividend **or** , interest on **registered bonds or interest on unit investment trust securities**, which prior to such date shall be considered as a due-bill, as defined in paragraph (a) above, for the amount of such dividend or interest **on registered bonds** .

- (c) Unchanged
- (d) Due-bill checks for cash distributions and interest

Due bill checks for a cash distribution, **or** interest on **registered bonds or interest on unit investment trust securities** shall accompany securities delivered too late for transfer on or before the record date.

- (e) and (f) - Unchanged

Sec. 49 CLAIMS FOR DIVIDENDS, RIGHTS, INTEREST, ETC.

- (a) and (b) - Unchanged

(c) Interest or rights on registered bonds

The provisions of subsections (a) and (b) of this section shall be equally applicable to interest or rights pertaining to registered bonds and unit investment trust securities.

Sec. 50 - 55 - Unchanged

Sec 56 IRREGULAR DELIVERY -- TRANSFER REFUSED --
LOST OR STOLEN SECURITIES

(a) Irregular delivery

Reclamation, by reasons of the fact of an irregularity in the delivery of a security, shall be within 30 months after the settlement date of the contract. For purposes of this section, the term "irregular delivery" shall include, among other things, wrong, duplicate, misdirected and or over- delivery deliveries and delivery of unit investment trust securities having the incorrect payment option.

(b), (c), and (d) - Unchanged

Sec. 57 - 58 - Unchanged

Sec. 59 "BUYING-IN"

(a) and (b) - Unchanged

(c)(i) Seller's failure to deliver after receipt of notice

On failure of the seller to effect delivery in accordance with the "buy-in" notice, or to obtain a stay as hereinafter provided, the buyer may close the contract by purchasing all or any part of the securities necessary to complete the contract. Such execution will also operate to closeout all contracts covered under retransmitted notices of buy-in issued pursuant to the original notice of buy-in. A "buy-in" may be executed by a member from its long position and/or from customer's accounts maintained with such member. In all cases, members must be prepared to defend the price at which the "buy-in" is executed relative to the current market at the time of the "buy-in."

(c)(ii) Buy-in for unit investment trust securities

Buy-in execution options, in addition to those contained in (c)(i), may be available when the purchaser wishes to buy-in contracts made for unit investment trust securities.

The purchaser may,

- (a) by mutual agreement, accept from the seller in lieu of the seller's obligation under the original contract (which shall be concurrently cancelled) the delivery of unit investment trust securities which are comparable to those originally bought in quantity, quality, yield or price and maturity, with any additional expenses or any additional cost of acquiring such substituted securities being borne by the seller.
- (b) if the purchaser's options in (c)(i) are not available and the purchaser and seller cannot agree upon option (a), above, require the seller, for the account and liability of the seller, to repurchase the unit investment trust securities on terms which provide that the seller pay an amount which requires the seller to bear the burden of any change in the market price from the original contract price, with accrued interest.

Bearing the burden of any change in the market price from the original contract price means that if the current market price is higher than the original contract price, the purchaser may require the seller to repurchase the unit investment trust securities at the current market price and conversely means that if the current market price is lower than the original contract price, the purchaser may require the seller to repurchase the unit investment trust securities at the original contract price, with accrued interest.

(d) - (n) - Unchanged

Sec. 60 - 64 - Unchanged