

# Notice To Members

National Association of Securities Dealers, Inc.

October 1992

**Number 92-53****Suggested Routing:\***

- |   |  |                                       |   |
|---|--|---------------------------------------|---|
| <input checked="" type="checkbox"/> Senior Management | <input checked="" type="checkbox"/> Internal Audit     | <input type="checkbox"/> Operations   | <input checked="" type="checkbox"/> Syndicate |
| <input checked="" type="checkbox"/> Corporate Finance | <input checked="" type="checkbox"/> Legal & Compliance | <input type="checkbox"/> Options      | <input type="checkbox"/> Systems              |
| <input type="checkbox"/> Government Securities        | <input type="checkbox"/> Municipal                     | <input type="checkbox"/> Registration | <input type="checkbox"/> Trading              |
| <input type="checkbox"/> Institutional                | <input type="checkbox"/> Mutual Fund                   | <input type="checkbox"/> Research     | <input checked="" type="checkbox"/> Training  |

\*These are suggested departments only. Others may be appropriate for your firm.

**Subject: Underwriting Compensation Received by Members in Public Corporate Equity Offerings****EXECUTIVE SUMMARY**

The NASD<sup>®</sup> is publishing the results of a recent study of underwriting compensation received in the distribution of public corporate equity offerings. The NASD analyzed the amount of actual compensation received in such offerings during calendar year 1991 and used it to predict levels of compensation that might be expected for various sizes and types of offerings. These predicted compensation values, expressed as a percentage of offering proceeds, should provide members and their

counsel with guidance regarding the typical amount of underwriting compensation for various offerings and the generally accepted levels of underwriting compensation as determined by the NASD.

The NASD published the results of an earlier study of underwriting compensation in *Notice to Members 83-15* on April 8, 1983. The findings of this study supersede the results reported in the 1983 Notice.

**NASD COMPENSATION GUIDELINES**

The Corporate Financing Rule, Article III, Section 44 of the Rules of Fair Practice states that no member or person associated with a member shall receive compensation or participate in a public offering of securities if the underwriting compensation in connection with the public offering is unfair or unreasonable. Determinations of the fairness or reasonableness are made by comparing the proposed compensation to the NASD underwriting compensation guidelines, which represent the maximum amount of compensation "underwriters and related persons" may receive in a public offering. Underwriters and related persons include under-

writers, underwriter's counsel, financial consultants and advisers, finders, members of the selling and distribution group, any member participating in the public offering, and any and all other persons associated with or related to, as well as members of the immediate family, of any of the aforementioned persons.

The NASD's Corporate Financing Department (Department) has direct responsibility for the review of underwriting compensation. To ensure compliance with the compensation guidelines, the Department reviews public offerings before their effective dates and aggregates all items of value proposed to be received by underwriters and re-

lated persons. The Department then compares the total compensation, expressed as a percentage of offering proceeds, to the appropriate guideline applicable to the offering. For the Department to issue an opinion expressing "no objections" to the underwriting compensation, such compensation must be equal to or less than the maximum applicable guideline.

In determining the maximum amount of compensation that is considered fair and reasonable, the NASD considers the size of the offering and the amount of risk assumed by the underwriter, which is determined by whether the offering is being underwritten on a firm commitment or best efforts basis and whether the offering is an initial or secondary offering. The maximum guideline amount generally will vary directly with the amount of risk assumed by the underwriter and inversely with the dollar amount of offering proceeds. Firm commitment offerings are permitted higher levels of compensation than best efforts offerings due to the risk involved in an underwriter purchasing the securities for resale versus simply utilizing its best efforts to place the securities for the issuer. In addition, a firm commitment initial public offering (IPO) is generally permitted higher compensation than a firm commitment secondary offering because the underwriter is dealing with an unseasoned issuer and is likely to incur higher costs in introducing the issuer to prospective underwriters and investors. The higher percentage levels of compensation permitted in smaller offerings recognizes that certain fixed costs are involved in any distribution, regardless of size.

### **METHODOLOGY**

To predict levels of underwriting compensation accurately, the Department analyzed the amount of compensation received, as disclosed in the final offering document or prospectus, for 874 corporate equity offerings filed with the Department during calendar year 1991. All items of underwriting compensation received by underwriters and related persons were considered, including: cash discounts or commissions; accountable and non-accountable expense reimbursements; warrants, options, cheap stock, and other securities and rights to acquire securities received by underwriters and related persons; finders fees paid for introducing the underwriter and the issuer; rights of first refusal; financial consulting and advisory fees; and

all other items of value received in connection with the offering.

The offerings were organized into three categories: 402 firm commitment IPOs, 380 firm commitment secondary offerings, and 92 best efforts offerings. For each of the three categories, the staff performed a regression analysis to predict expected amounts of compensation for certain size offerings in each category.

### **RESULTS**

The attached table indicates the gross proceeds of the offering (in millions of dollars) and the predicted percentage of gross proceeds, exclusive of any over-allotment option, that might be allocated to underwriting compensation for firm commitment IPOs, firm commitment secondary offerings, and best efforts corporate equity offerings. The amounts shown do not represent the compensation actually received in any one offering or the mathematical average for all offerings of a particular size reviewed during 1991. Such amounts also do not reflect the compensation originally proposed to be received when the offerings were filed with the NASD.

It should also be made clear that the amounts of compensation shown are predicted amounts for corporate equity offerings. Such offerings frequently produce higher levels of underwriting compensation and their proposed levels often exceed the NASD guidelines. The study did not include corporate debt offerings because they usually have lower amounts of underwriting compensation than equity offerings.

In addition, the study did not cover direct participation programs and real estate investment trusts because Appendix F to Article III, Section 34 of the Rules of Fair Practice limits them to a maximum underwriting compensation of 10 percent. Therefore, all such offerings have underwriting compensation equal to or less than 10 percent, with an additional .5 percent allowed for the reimbursement of bona fide due diligence expenses.

Questions regarding this Notice may be directed to the NASD Corporate Financing Department at (202) 728-8258.

**TOTAL UNDERWRITING COMPENSATION<sup>1</sup>**

Gross Dollar Amount of Offering (millions)	Firm Commitment Initial Offerings (%)	Firm Commitment Secondary Offerings (%)	Best Efforts Offerings (%)
\$ 1	15.80%	14.57%	11.83%
2	14.31	12.91	10.72
3	13.44	11.94	10.07
4	12.82	11.26	9.61
5	12.34	10.72	9.26
6	11.95	9.56	8.96
7	11.62	9.12	8.72
8	11.33	8.76	8.50
9	11.08	8.45	8.32
10	10.65	8.18	8.15
11	9.90	7.95	8.04
12	9.18	7.74	7.86
13	8.49	7.56	7.73
14	7.82	7.39	7.61
15	7.59	7.24	7.50
16	7.55	7.10	7.40
17	7.52	6.97	7.30
18	7.48	6.85	7.21
19	7.45	6.74	7.12
20	7.42	6.63	7.04
25	7.29	6.20	6.68
30	7.19	5.86	6.39
35	7.10	5.60	6.14
40	7.02	5.37	5.93
45	6.95	5.19	5.74
50 or more	6.89	5.00	25.57

<sup>1</sup> This table contains the results of a regression analysis of an overall population and not mathematical averages for each category. This data should be considered only in connection with the explanation of methodology contained in the attached Notice.

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### Subject: Veteran's Day and Thanksgiving Day — Trade Date-Settlement Date Schedule

The schedule of trade dates-settlement dates below reflects the observance by the financial community of Veteran's Day, Wednesday, November 11, 1992, and Thanksgiving Day, Thursday, November 26, 1992. On Wednesday, November 11, securities exchanges and The Nasdaq Stock Market<sup>SM</sup> will be open for trading. However, it will not be a settlement date since many of the nation's banking institutions will be closed in observance of Veteran's Day. All securities markets will be closed on Thursday, November 26, in observance of Thanksgiving Day.

Trade Date	Settlement Date	Reg. T Date*
November 2	Nov. 9	Nov. 11
3	10	12
4	12	13
5	13	16
6	16	17
9	17	18
10	18	19
11	18	20
12	19	23
18	25	30
19	27	Dec. 1
20	30	2
23	Dec. 1	Dec. 3
24	2	4
25	3	7
26	Markets Closed	—
27	4	8

**Note:** November 11, 1992, is considered a business day for receiving customer payments under Regulation T of the Federal Reserve Board.

Transactions made on November 11 will be combined with transactions made on the previous business day, November 10, for settlement on November 18. Securities will not be quoted ex-dividend, and settlements, marks to the market, reclamations, buy-ins, and sell-outs, as provided in the Uniform Practice Code, will not be made and/or exercised on November 11.

Brokers, dealers, and municipal securities dealers should use these settlement dates to clear and settle transactions pursuant to the NASD<sup>®</sup> 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) 858-4341.

\*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 "Reg. T Date."

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### Subject: Nasdaq National Market<sup>®</sup> Additions, Changes, and Deletions as of September 25, 1992

As of September 25, 1992, the following 35 issues joined the Nasdaq National Market,<sup>®</sup> bringing the total number of issues to 2,934:

Symbol	Company	Entry Date	SOES Execution Level
SNSC	Swing-N-Slide Corp.	8/28/92	1000
ABMD	ABIOMED, Inc.	8/31/92	1000
FCTR	First Charter Corporation	8/31/92	200
CONS	Conservative Savings Corporation	9/1/92	200
FISL	First Interstate Bank of Southern Louisiana	9/1/92	200
PDKL	PDK Labs, Inc.	9/1/92	1000
PDKLP	PDK Labs, Inc. (Pfd)	9/1/92	1000
PDKLZ	PDK Labs, Inc. (Cl B Wts)	9/1/92	1000
PDKLM	PDK Labs, Inc. (Cl C Wts)	9/1/92	1000
FUNC	First United Corporation	9/2/92	200
MSBB	MSB Bancorp, Inc.	9/3/92	1000
SCIOW	Scios Nova Inc. (Cl C Wts)	9/4/92	1000
SCIOZ	Scios Nova Inc. (Cl D Wts)	9/4/92	1000
BASER	Base Ten Systems, Inc. (Rts)	9/9/92	1000
CCAXW	Corrections Corporation of America (Wts)	9/14/92	1000
AWIN	Allied Waste Industries, Inc.	9/15/92	1000
FBNKP	First Banks, Inc. (Pfd)	9/15/92	500
IRWN	Irwin Financial Corporation	9/15/92	500
MBMI	Micro Bio-Medics, Inc.	9/15/92	1000
SGII	SIG International	9/15/92	1000
SHRO	Sports Heroes, Inc.	9/15/92	1000
SHROW	Sports Heroes, Inc. (Wts)	9/15/92	1000
WSTE	TransAmerican Waste Industries, Inc.	9/15/92	1000

**Notice to Members 92-55**

<b>Symbol</b>	<b>Company</b>	<b>Entry Date</b>	<b>SOES Execution Level</b>
WSTEW	TransAmerican Waste Industries, Inc. (CI A Wts)	9/15/92	200
WSTEZ	TransAmerican Waste Industries, Inc. (CI B Wts)	9/15/92	200
SPRC	Sports & Recreation, Inc.	9/16/92	1000
AMST	American Studios, Inc.	9/18/92	1000
CAKE	Cheesecake Factory Incorporated (The)	9/18/92	1000
ASGN	On Assignment, Inc.	9/22/92	1000
LFUS	LittelFuse, Inc.	9/22/92	500
LFUSW	LittelFuse, Inc. (Wts)	9/22/92	500
NTRX	Netrix Corporation	9/22/92	1000
AMGP	American Insurance Group, Inc.	9/22/92	1000
MONE	The Money Store Inc.	9/23/92	1000
CCUUY	Compania Cervecerias Unidas S.A.	9/24/92	1000

**Nasdaq National Market Symbol and/or Name Changes**

The following changes to the list of Nasdaq National Market securities occurred since August 28, 1992:

<b>New/Old Symbol</b>	<b>New/Old Security</b>	<b>Date of Change</b>
ILIOW/ILIOW	Ilio Inc. (8/31/92 Wts)/Ilio Inc. (10/31/92 Wts)	9/3/92
SCIO/SCIO	Scios Nova Inc./Scios, Inc.	9/4/92
ARBC/ARBC	Republic Bank/American Republic Bank	9/11/92
HRIZ/HRIZ	Horizon Resources Corporation/Horizon Gold Corporation	9/17/92
FAMR/FAMRA	First American Financial Corp./First American Financial Corp. (CI A)	9/25/92

**Nasdaq National Market Deletions**

<b>Symbol</b>	<b>Security</b>	<b>Date</b>
NIEX	Niagara Exchange Corporation	8/28/92
FFAL	First Federal of Alabama, F.S.B.	8/31/92
CTLC	Consolidated-Tomoka Land Co.	9/1/92
NATC	NaTec Resources, Inc.	9/1/92
SOCI	Society Corporation	9/1/92
COUS	Cousins Properties Incorporated	9/2/92
FPNJ	First Peoples Financial Corporation	9/4/92
JALC	John Adams Life Corporation	9/4/92
NOVX	Nova Pharmaceutical Corporation	9/4/92
NOVXM	Nova Pharmaceutical Corporation (CI C Wts)	9/4/92
NOVXL	Nova Pharmaceutical Corporation (CI D Wts)	9/4/92
CNCD	Concorde Career Colleges, Inc.	9/9/92
EIPM	EIP Microwave, Inc.	9/9/92
GLXIF	Glenex Industries, Inc.	9/9/92
GVMJ	GV Medical, Inc.	9/9/92
INMA	Intermagnetics General Corporation	9/9/92
MMIC	Mass Microsystems, Inc.	9/9/92
MEYR	Fred Meyer, Inc.	9/9/92
CDRWQ	Cedar Group, Inc. (Wts)	9/11/92
FEDF	Federated Bank, S.S.B.	9/14/92

<b>Symbol</b>	<b>Security</b>	<b>Date</b>
LLEC	Long Lake Energy Corporation	9/14/92
ARAI	Allied Research Corporation	9/15/92
JEANW	Jean Philippe Fragrances, Inc. (Wts)	9/15/92
FASB	First American BanCorp	9/16/92
HMOA	HMO America, Inc.	9/18/92
MTBS	Metro Bancshares Inc.	9/21/92
VMLPZ	Banyan Mortgage Investors, L.P.	9/23/92
FAMRB	First American Financial Corp. ( Cl B)	9/25/92

Questions regarding this Notice should be directed to Mark Esposito, Supervisor, Market Listing Qualifications, at (202) 728-8002. Questions pertaining to trade reporting rules should be directed to Bernard Thompson, Assistant Director, NASD Market Surveillance, at (301) 590-6436.

# Board Briefs

National Association of Securities Dealers, Inc.

October 1992

## Actions Taken by the NASD Board of Governors in September

■ **President's Report** — The evolution of the NASD's strategic planning process has continued to yield improvements as it becomes more comprehensive and measurable. By way of background, the NASD in 1988 revamped its planning process and developed a Strategic Plan that was presented to and approved by the Board at the May 1989 meeting. This Plan — driven by its vision, targets, and strategies — has increasingly become the framework for the NASD in the conduct of its activities.

Consistent with its goal to become service driven, the NASD's planning approach in 1992 has been changed to reflect more accurately the various business units that it operates and the discrete customers each serves. This contrasts with the previous approach of focusing on broad Key Strategic Initiatives (KSIs), which cut across multiple business lines and were primarily functionally driven.

Financial projections for each of the business units are included as key components of the Plan. The goal is to tie together planning strategies and objectives with the appropriate financial data to reflect their financial impact and gauge their relative feasibility.

In recent months, the NASD has received a number of requests for assistance from markets in Europe, Asia, and South America. In response, the NASD is calling on former and current high-level staff members to meet with representatives from these markets to discuss regulatory and technological matters related to securities markets and screen-based trading. In one case, representatives of the People's Republic of China have asked us to send four of our technical people to China to help them review the feasibility of a screen-based trading system that would meet their capital-raising needs.

The Nasdaq Stock Market<sup>SM</sup> has continued to set share and dollar volume records through the first eight months of 1992. Average daily share volume was 184.4 million, up nearly 13 percent and

average daily dollar volume was \$3.4 billion, up almost 26 percent. Total share volume stood at 31.2 billion shares through the end of August and, at that pace, total trading for the year could reach a record 46 billion shares.

■ **Trading** — The NASD will shortly submit for SEC approval a measure to codify members' obligation to submit accurate and complete trade details when using the Automated Confirmation Transaction (ACT)<sup>SM</sup> service. These trade-by-trade data are critical to the NASD's market surveillance and enforcement programs because they form the bases for the NASD's transaction audit trail.

In a move to facilitate surveillance of member compliance with the trading requirements, including the proposed short-sale rule, the Board approved for filing with the SEC changes that would require reporting the time of execution for late trades. This time-of-execution change is needed to place such late trades in their proper sequence to construct an accurate audit trail for monitoring member compliance with all trading rules.

In addition, the proposals would add a short-sale modifier to trade reports for all non-market maker broker/dealer short sales and all customer short sales. The designator would apply even when a qualified market maker facilitates a short sale for a customer, i.e., buys as principal from a customer selling short. Short sales are already designated as such on order tickets; thus, entering the trade into ACT as a short sale should not prove burdensome. Market makers not exempt from the short-sale rule would also have to annotate the ACT trade report to indicate that the sale is short.

The SEC will be asked to approve changes to Schedule D to reduce the excess spread parameters to no greater than 125 percent of the average of the narrowest three dealer spreads in each Nasdaq security. However, a market maker would not be required to quote less than a 1/4 point



spread in any security.

The Board approved for filing with the SEC changes to Schedule D to help members avoid inadvertent violations of SEC Rule 10b-6 provisions concerning the two- and nine-day cooling-off period. Rule 10b-6 covers prohibitions against trading by persons interested in a distribution. The proposed changes would facilitate compliance with Rule 10b-6 by establishing the conditions under which Nasdaq will grant excused withdrawal status to a market maker participating in the distribution of a security in which it currently makes a market.

The manager of the distribution or a member acting in a similar capacity would have to notify Nasdaq of the prospective distribution within five days of filing the offering documents either with the NASD or an appropriate regulatory authority. The manager would also be required to inform Nasdaq when the cooling-off period will begin and identify the market makers participating in the distribution so that their quotes could be deleted during the cooling-off period. Finally, the manager would inform each participant that Nasdaq has been notified of its participation in the prospective distribution. To prevent deletion of its quotes, a market maker identified as a participant would have to notify both the manager and Nasdaq by 4 p.m., Eastern Time, the day before the cooling-off period begins that it does not intend to take part in the distribution.

This proposal is intended to provide a safeguard or backup for the internal compliance procedures of member firms obligated to comply with Rule 10b-6. The NASD believes this will provide a service that will increase compliance with Rule 10b-6 and preclude the SEC from having to take action to enforce the terms of Rule 10b-6 against members experiencing repeated inadvertent violations of the rule.

The Board approved proceeding with steps to significantly upgrade the OTC Bulletin Board service. These include requiring last-sale reporting by members of transactions in all over-the-counter trades in equity securities not otherwise trade reported (excluding transactions in ADRs and foreign shares). A member without a Nasdaq Workstation<sup>®</sup> or computer-to-computer interface and with a de minimis number of trade reports per day, i.e., five or fewer, could use the ACT service desk to make such trade reports within 90 seconds of execution.

■ **Business Practices** — The Board approved for member vote and filing with the SEC a measure to increase from \$50 to \$100 the annual per-person limitation on the payment of gratuities to employees of others. This action mirrors a similar one taken by the New York Stock Exchange (NYSE) and, if adopted, would simplify compliance for NASD members that also belong to the NYSE.

The Board authorized a member vote on the rescission of the *Guidelines Regarding Communications with the Public about Investment Companies and Variable Contracts* and changes to Article III, Section 35 of the Rules of Fair Practice which covers communications with the public. If approved, these measures will be filed with the SEC for its approval. The measures going out for vote are slightly different from those commented on by the members earlier this year. In response to those comments, the NASD has altered some of the provisions. Under the general standards section, a new section sets forth factors to be considered when judging whether a communication or part of it may be misleading. These include the overall context in which the statement is made; the audience to which the communication is directed; and the overall clarity of the communication.

The subsection on tax-free/tax-exempt claims was modified to include an example about taxes and municipal bonds, and the language was clarified to require disclosure of either which taxes apply or which do not, instead of requiring disclosure of both. Finally, the proposal would not consider as a projection of performance hypothetical illustrations of mathematical principles, e.g., illustrations designed to show the effects of dollar cost averaging, tax-free compounding, or the mechanics of variable annuity contracts or variable life policies.

In addition to real-time reporting, the NASD will seek designation of the OTC Bulletin Board under Section 17B of the Securities Exchange Act. This provision directs the SEC to oversee development of an electronic market system for penny stocks. It also specifies certain characteristics that a system must have to qualify for such designation, such as the display of firm quotations for a minimum unit of trading and real-time trade reporting. Additionally, the section contemplates broad dissemination of quotation and transaction data to broker/dealers and investors on a real-time basis. With the addition of real-time reporting, the OTC Bulletin

tin Board service would qualify for Section 17B designation. Gaining this designation would bolster the image of the service, enhance the NASD's surveillance capabilities, and facilitate member firms' compliance with penny stock disclosure rules.

■ **Arbitration** — The Board approved filing with the SEC an amendment to the NASD Code of Arbitration to make public all customer awards and to include with that information the names of the arbitrators who decided the cases. Currently, public customer awards issued on or after May 10, 1992, and all contents, except the arbitrators' names, are publicly available. The NASD was concerned that disclosure of arbitrators' names would inhibit persons from participating as arbitrators. However, the experience of other arbitration forums is that such disclosure has not adversely affected the availability of arbitrators.

An amendment to the Code of Arbitration procedure that was approved by the Board for filing with the SEC would provide for public panels to resolve certain disputes arising out of the employment or termination of employment of associated persons. Under the proposal, disputes subject to arbitration that relate exclusively to disputes involving employment contracts, promissory notes, receipts of commissions, or wrongful discharge would continue to be handled by a panel of industry arbitrators. All other disputes arising out of employment or termination of employment of an associated person would be handled by a panel of public arbitrators.

■ **Schedule E** — Pending SEC approval, employees of a member may purchase the securities of an issuer that owns a majority (not less than 51 percent) of the member, notwithstanding the provisions of the Free-Riding and Withholding Interpretation that prevent such sales if the offering is a "hot issue." An earlier proposal, pending at the SEC, provided such relief to purchases of the securities of issuers that wholly-owned a member. However, when the Board approved the wholly-owned exemption for filing with the SEC, it suggested consideration of expanding the measure to include majority-owned members. On review, the NASD determined that there is no discernible difference between the interest of employees of members that are wholly-owned by issuers and employees of members that are at least 51 percent owned.

Measures designed to expand Schedule E's

current focus on affiliation to include provisions addressing conflicts of interest received Board approval for filing with the SEC. The proposals, first offered for member comment in June 1990, include a number of changes made in response to those comments. The result of these changes is that:

- Offerings of investment companies, separate accounts, direct participation programs, real estate investment trusts, financing-backed investment grade securities, and offerings of not-for-profit and charitable organizations, currently exempt from Schedule E, should also be exempt from the conflict-of-interest provisions.

- Offerings of investment grade debt and offerings of securities with a bona fide independent market should be excluded from the conflict-of-interest definition.

- The definition of a conflict of interest need not incorporate a rebuttable presumption that such conflict exists, since members always have the right to submit arguments denying the applicability of Schedule E to a hearing subcommittee.

- Specific prospectus disclosure of a conflict of interest is unnecessary if disclosure indicating that the offering is being made in compliance with Schedule E due to certain security holdings is provided.

- In exchange offers and other transactions relating to recapitalizations and restructurings where an NASD member subject to Schedule E is acting as an adviser rather than an underwriter, a qualified independent underwriter would only conduct due diligence and review the opinion of the financial adviser and would be relieved from providing a pricing opinion where the affiliated financial advisor has not been engaged to opine on the price or the exchange value.

- All securities beneficially owned by a member at the time of the filing of the offering documents, including proprietary trading accounts and other fluctuating positions, be included in the computation of the threshold percentages and trigger the application of the conflict provisions, regardless of whether they are sold prior to effectiveness.

- Members will be obligated to advise the Corporate Financing Department if their ownership of the issuer's securities brought them above the threshold(s) or changed during the registration period.

- The experience provisions of Section 3 of Schedule E should apply to bank-affiliated mem-

bers since (a) the Corporate Financing Department has some flexibility in applying the current language and (b) members are eligible for an exception from those requirements, granted by the NASD on a case-by-case basis, if they can demonstrate appropriate experience.

- Debt held by a bank or “other lending institution” acting in the normal course of its business does not create the type of conflict that the NASD should regulate such that senior debt, whether secured or unsecured, should be excluded from the application of the proposed amendments.

- The ownership of the common equity, pre-

ferred stock, or debt of the parent of the issuer should not indicate a conflict of interest under the proposed amendments.

- Ten percent is the appropriate level for determining the existence of a conflict of interest.

The conflict-of-interest provisions for debt apply only to ownership of subordinated debt of an issuer by an underwriter or its affiliates. In that connection, the proposal revises the definition of subordinated debt to provide members with an effective means of analyzing whether their ownership of a company’s debt securities should be viewed as falling within the definition.

# Disciplinary Actions

National Association of Securities Dealers, Inc.

October 1992

## Disciplinary Actions Reported for October

The NASD<sup>®</sup> is taking disciplinary actions against the following firms and individuals for violations of the NASD Rules of Fair Practice; securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board. Unless otherwise indicated, suspensions will begin with the opening of business on Monday, October 19, 1992. The information relating to matters contained in this Notice is current as of the fifth of this month. Information received subsequent to the fifth is not reflected in this publication.

### FIRMS SUSPENDED, INDIVIDUALS SANCTIONED

**Windsor IBC, Inc. (New York, New York)** and **Mary Martha Martin (Registered Principal, New York, New York)**. The firm submitted an Offer of Settlement and was fined \$66,511, an amount that may be reduced by actual restitution to customers. The firm was also suspended from engaging in principal transactions in penny stocks for 90 days. Martin was fined \$25,000 and required to requalify by examination as a general securities principal. Without admitting or denying the allegations, Windsor consented to the described sanctions and to the entry of findings that the firm, acting through Martin, sold shares of common stocks to public customers at prices that were not fair, in contravention of the NASD Mark-Up Policy. The markups on these transactions ranged from 6.75 to 133 percent above the firm's contemporaneous costs. In addition, the findings stated that the firm failed to establish and implement supervisory procedures to detect and prevent the aforementioned activity.

### FIRMS FINED, INDIVIDUALS SANCTIONED

**Professional Planning & Technologies, Inc. (Warwick, Rhode Island)**, **Harry Harootunian (Registered Principal, Cranston, Rhode Island)**, and **Frank Kufrovich (Registered Principal, Woodland Hills, California)** submitted an Offer of Settlement that resulted in the firm and Harootunian being fined \$45,000, jointly and severally. They must also submit all written advertisements and sales literature for review by a special counsel for a period of one year. Kufrovich was fined \$45,000 and required to requalify by examination as a general securities principal.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Harootunian and Kufrovich, failed to terminate a private offering on the expiration date and continued to offer the units to investors. In the private offerings, the NASD also found that the firm, acting through Harootunian and Kufrovich, prepared and disseminated to prospective investors sales literature that contained false and misleading statements. In addition, the NASD determined that the firm, acting through Harootunian and Kufrovich, solicited investors in the same three offerings through the use of sales literature and sold units to investors who neither had an existing or prior business relationship with their firm.

### FIRMS AND INDIVIDUALS FINED

**Barrett Day Securities, Inc. (New York, New York)**, **David Berger (Registered Principal, Roslyn, New York)**, and **Barry Leonard Schwartz (Registered Principal, Huntington, New York)** submitted an Offer of Settlement pursuant to which they were fined \$20,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that in contravention of Securities and Exchange Commission (SEC) Rule 15c2-6, the firm, acting through Berger and Schwartz, effected sales of designated securities with customers whose accounts had not been approved for trading in designated securities and for whom a written agreement to the transactions had not been obtained.

The findings also stated that the firm, acting through Berger and Schwartz, failed to maintain an

adequate supervisory system and written supervisory procedures. In addition, NASD found that in contravention of the Board of Governors Free-Riding and Withholding Interpretation, the firm, acting through Berger and Schwartz, purchased shares of a new issue that traded at a premium in the immediate aftermarket.

**Covey and Co., Inc. (Salt Lake City, Utah)** and **David E. Nelson (Registered Principal, Salt Lake City, Utah)** were fined \$10,000, jointly and severally. In addition, Nelson must requalify by examination as a financial and operations principal (FINOP) and the firm was required to replace Nelson as the firm's FINOP with another qualified person who is approved by the NASD.

The National Business Conduct Committee (NBCC) imposed the sanctions following appeal of a decision by the District Business Conduct Committee (DBCC) for District 3. The sanctions were based on findings that the firm, acting through Nelson, failed to compute its net capital and reserve requirement accurately and to file an accurate assessment report. In addition, the firm, acting through Nelson, failed to update a registered representative's Form U-4 to report disciplinary action taken against the individual by the state of Utah.

Furthermore, the firm, acting through Nelson, failed to evidence the review of seven options transactions by a registered options principal and failed to maintain adequate written supervisory procedures.

### INDIVIDUALS BARRED OR SUSPENDED

**Patrick J. Allen (Registered Principal, Denver, Colorado)** was fined \$20,000 and suspended from association with any member of the NASD in any principal capacity for 30 days. In addition, Allen must requalify by examination in any principal capacity. The sanctions were based on findings that Allen caused a new member applicant to conduct a securities business before the effective date of its membership with the NASD and allowed a representative to engage in a securities business before being registered with the same firm.

Furthermore, in contravention of the SEC's Customer Protection Rule, Allen held customer funds totaling \$1,147,400 in the firm's bank account when the firm was prohibited from doing so. Moreover, Allen failed to record the aforementioned bank account on the firm's books and re-

cords.

**Douglas A. Bombardier (Registered Representative, Peabody, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent under which he was fined \$15,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Bombardier consented to the described sanctions and to the entry of findings that he misappropriated to his own use insurance premiums totaling \$5,723.82.

**Larry Wayne Bowling (Registered Principal, Clearwater, Florida)** and **Stephen Ray Reash (Registered Principal, Lafayette, Indiana)** submitted an Offer of Settlement pursuant to which they were each fined \$25,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a former member firm, acting through Bowling and Reash, withdrew funds from the escrow accounts of six contingent offerings before all units were sold in bona fide transactions. In addition, the NASD found that the firm, acting through Bowling and Reash, failed to comply with the provisions of the offering memoranda in seven offerings in which the firm oversold units to investors.

Furthermore, the NASD found that the firm, acting through Bowling and Reash, failed to escrow funds in six contingency offerings, in contravention of the terms of its restrictive agreement with the NASD, and failed to maintain a record of the dates customers' funds were forwarded to escrow accounts. The findings also stated that the firm, acting through Bowling and Reash, failed to maintain its required minimum net capital and Bowling and Reash failed to respond to NASD requests for information.

**William H. Carmon, Jr. (Registered Representative, Burlington, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Carmon consented to the described sanctions and to the entry of findings that he prepared and submitted to his member firm 28 variable annuity applications on behalf of real and fictitious customers without their knowledge or authorization to generate a \$7,367.83 commission payment to himself.

**Edward B. Daroza, Jr. (Registered Principal, Redmond, Washington)** was fined \$15,000, suspended from association with any member of the NASD in any capacity for six months, and barred from association with any member of the NASD in any principal capacity. In addition, he must requalify by examination as a registered representative.

The sanctions were affirmed by the SEC following appeal of a decision by the NBCC. The sanctions were based on findings that a former member firm, acting through Daroza, effected securities transactions while failing to maintain its required minimum net capital. In addition, Daroza deceived and misled his clearing firm by establishing two fictitious customer accounts that he used to effect a series of securities transactions for his former member firm.

**Jasper Perry Dotson, III (Registered Representative, St. Paul, Minnesota)** submitted an Offer of Settlement pursuant to which he was fined \$10,000, barred from association with any member of the NASD in any capacity, and required to pay restitution to public customers. Without admitting or denying the allegations, Dotson consented to the described sanctions and to the entry of findings that in contravention of the Board of Governors Interpretation with Respect to Fair Dealing with Customers, he purchased and sold securities for the accounts of five public customers without their knowledge or consent.

**Mark Jeffrey Epps (Registered Representative, Flint, Michigan)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$22,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Epps consented to the described sanctions and to the entry of findings that he obtained from a public customer a \$1,210.05 check representing the proceeds of her Individual Retirement Account (IRA) with instructions to invest the funds in an IRA at his member firm. Contrary to the customer's instructions, the NASD found that Epps deposited the check in a bank account in which he had an interest, and retained the funds for his own use and benefit until a later date when he returned the funds to the customer.

**Thomas J. Farmar, Jr. (Registered Representative, Oak Park, Illinois)** submitted a Letter of Acceptance, Waiver and Consent pursuant to

which he was fined \$75,000, barred from association with any member of the NASD in any capacity, and required to pay \$20,000 in restitution to a public customer.

Without admitting or denying the allegations, Farmar consented to the described sanctions and to the entry of findings that he received from a public customer \$20,000 with instructions to use the funds to purchase short-term treasury bills. The NASD found that Farmar failed to follow the customer's instructions and used the funds for purposes other than to benefit the customer. The findings also stated that Farmar engaged in private securities transactions while failing to give prior written notice to his member firm that he intended to engage in such activities.

**Ledrew W. Farrow, Jr. (Registered Representative, Powell, Ohio)** submitted an Offer of Settlement pursuant to which he was fined \$50,000, barred from association with any member of the NASD in any capacity, and required to pay restitution to a public customer. Without admitting or denying the allegations, Farrow consented to the described sanctions and to the entry of findings that he opened a margin account for a public customer and transferred securities from her cash account to her margin account without the customer's knowledge or consent.

Furthermore, the findings stated Farrow purchased shares of a penny stock for the same customer's cash account, and transferred funds from the customer's margin account to pay for the purchase without her knowledge or consent. In addition, the NASD determined that one of the aforementioned transactions was an "in-house agency cross" between the customer's and Farrow's accounts.

**Martin J. Favis (Registered Principal, Ormond Beach, Florida)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Favis consented to the described sanction and to the entry of findings that he charged \$11,056.38 in personal expenses to his member firm's corporate charge account and paid for the charges with funds from a branch office checking account. In addition, the findings stated that Favis charged \$1,903.69 in business expenses to the same corporate charge account and paid for those charges with a branch office check. He also

submitted expense forms to his member firm and was reimbursed for the same charges.

**Donald Fry (Registered Representative, Kendallville, Indiana)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$75,000 and barred from association with any member of the NASD in any capacity. In addition, he must pay \$40,000 in restitution to a public customer. Without admitting or denying the allegations, Fry consented to the described sanctions and to the entry of findings that he obtained from a public customer a \$40,000 check intended for investment purposes. The NASD determined that Fry deposited the funds in his personal bank account and used the monies for his personal benefit.

**Amen Salim Kahwajy, Jr. (Registered Representative, Chesterfield, Virginia)** was fined \$30,000 and barred from association with any member of the NASD in any capacity. The sanctions were based on findings that Kahwajy misappropriated funds totaling \$27,211 from two public customers and failed to respond to NASD requests for information.

**Ronald Elrie Lamott (Registered Representative, Hayden Lake, Idaho)** was fined \$15,000 and suspended from association with any member of the NASD in any capacity for 90 days. The sanctions were based on findings that Lamott engaged in a private securities transaction without providing prior written notice to his member firm.

**Michael S. Lawyer (Registered Representative, Memphis, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$10,000 and suspended from association with any member of the NASD in any capacity for three months. Without admitting or denying the allegations, Lawyer consented to the described sanctions and to the entry of findings that he failed to provide his member firm with written notice of his outside business activities.

**Linda L. Leigh (Registered Representative, Palm Harbor, Florida)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$5,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Leigh consented to the described sanctions and to the entry of findings that she failed to pay an \$8,946 arbitration award.

**Bruce E. Mauer (Registered Repre-**

**sentative, Evergreen, Colorado)** was fined \$20,000 and suspended from association with any member of the NASD in any capacity for two years. The sanctions were based on findings that Mauer failed to respond to NASD requests for information.

**Robert James McBride (Registered Representative, Ellgence, Oregon)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$7,500 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, McBride consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without informing his member firm.

**Gene McCartney (Registered Principal, Berryville, Arkansas)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, McCartney consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to and approval from his member firm. The findings also stated that McCartney made misrepresentations to public customers concerning their investment in a common stock.

In addition, the NASD found that McCartney recommended and sold a common stock to a public customer without having reasonable grounds for believing that such recommendations were suitable for the customer. Furthermore, the findings stated that McCartney sold unregistered common stocks and failed to provide written notice to his member firm of his affiliation with another company. McCartney also failed to respond to NASD requests for information.

**Louis H. McPeters, Jr. (Registered Representative, Wartburg, Tennessee)** submitted an Offer of Settlement pursuant to which he was fined \$50,000, barred from association with any member of the NASD in any capacity, and required to pay \$720,000 in restitution to public customers. Without admitting or denying the allegations, McPeters consented to the described sanctions and to the entry of findings that he received from public customers checks totaling \$720,000 made payable to a fictitious entity that McPeters controlled. Furthermore, the findings stated that McPeters converted

the funds to his own use and benefit without the customers' knowledge or consent. The NASD also found that McPeters engaged in private securities transactions without providing prior written notification to his member firm. In addition, McPeters failed to respond to NASD requests for information.

**Jeffery A. Meyers (Registered Representative, Oklahoma City, Oklahoma)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$50,000, barred from association with any member of the NASD in any capacity, and required to pay \$5,500 in restitution to public customers. Without admitting or denying the allegations, Meyers consented to the described sanctions and to the entry of findings that he converted customer funds totaling \$5,500 to his own use and benefit without the customers' knowledge or consent. In addition, Meyers failed to respond to an NASD request for information.

**Kellie A. Moore (Registered Representative, East Liverpool, Ohio)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which she was fined \$22,000, barred from association with any member of the NASD in any capacity, and required to pay \$1,545.25 in restitution to a public customer. Without admitting or denying the allegations, Moore consented to the described sanctions and to the entry of findings that she misappropriated and converted to her own use \$1,545.25 in customers' insurance premiums.

**Brian Gerard Oliver (Registered Representative, Boulder, Colorado)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$20,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Oliver consented to the described sanctions and to the entry of findings that he mishandled a customer's funds.

**Robert Pasky III (Registered Representative, Rockford, Illinois)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Pasky consented to the described sanction and to the entry of findings that he received from a public customer three checks totaling \$6,306.50 to pay premiums on a life insurance policy, but deposited the funds in his personal bank account and kept at least

\$3,128.50 for his personal benefit.

**John George Pearce (Registered Principal, Wilson, New York)** submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any member of the NASD in any capacity for one day. Without admitting or denying the allegations, Pearce consented to the described sanctions and to the entry of findings that he engaged in three private securities transactions without providing prior written notice to or obtaining written authorization from his member firm.

Pearce's suspension commenced September 30, 1992.

**Morgan Charles Penn (Registered Representative, Canal Winchester, Ohio)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$75,000, barred from association with any member of the NASD in any capacity, and required to pay \$37,600 in restitution to public customers. Without admitting or denying the allegations, Penn consented to the described sanctions and to the entry of findings that he misappropriated and converted to his own use customer funds totaling \$37,600 through fictitious transactions in mutual funds, one note, and one variable annuity.

**William C. Psetas (Registered Representative, Saginaw, Michigan)** submitted an Offer of Settlement pursuant to which he was fined \$10,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Psetas consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without providing written notice of these activities to his member firm.

**James G. Rogers (Registered Representative, Bellville, Illinois)** submitted an Offer of Settlement pursuant to which he was fined \$120,000, barred from association with any member of the NASD in any capacity, and required to pay \$80,000 in restitution to public customers.

Without admitting or denying the allegations, Rogers consented to the described sanctions and to the entry of findings that he received from public customers two checks totaling \$80,000 to purchase bonds. According to the findings, Rogers used the funds for purposes other than the benefit of the customers. The NASD also found that Rogers failed to respond to NASD requests for information.



**Mario Arthur Romano (Registered Representative, Staten Island, New York)** submitted an Offer of Settlement pursuant to which he was fined \$7,500 and suspended from association with any member of the NASD in any capacity for five business days. Without admitting or denying the allegations, Romano consented to the described sanctions and to the entry of findings that he completed blank order tickets that were previously time-stamped, and submitted them for processing as purchases after the market had moved in his favor.

**Terry Devanand Singh (Registered Representative, Richmond Hill, New York)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$1,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Singh consented to the described sanctions and to the entry of findings that during the course of an examination, he possessed notes with material relevant to the examination.

**Gregory Thomas Smith (Registered Representative, Webster Groves, Missouri)** submitted an Offer of Settlement pursuant to which he was fined \$50,000 and barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he engaged in private securities transactions with public customers without providing prior written notification to his member firm. The NASD also found that Smith made misrepresentations and income projection comparisons, in the aforementioned transactions, that did not include any risk disclosure language.

In addition, the NASD determined that Smith purchased shares of a common stock without the customer's knowledge or consent.

**Allan R. Stingley (Registered Representative, Lawrenceville, Georgia)** submitted an Offer of Settlement pursuant to which he was barred from association with any member of the NASD in any capacity. Without admitting or denying the allegations, Stingley consented to the described sanction and to the entry of findings that he engaged in a private securities transaction without providing written notification to his member firm. The findings also stated that Stingley became a director of a corporation and failed to provide written notification of such employment to his member firm. The NASD also found that Stingley provided

a public customer with a security summary statement wherein he misrepresented the market price for a security. In addition, Stingley failed to honor an NASD request for information.

**Peter Joseph Tornaben (Registered Representative, Palm Beach Gardens, Florida)** submitted an Offer of Settlement pursuant to which he was fined \$5,000 and suspended from association with any member of the NASD in any capacity for 10 years. Without admitting or denying the allegations, Tornaben consented to the described sanctions and to the entry of findings that he falsely advised a public customer that an options position had been sold at a profit, when in fact the options had not been sold. According to the findings, Tornaben also altered a purchase confirmation to reflect the above activity and sent the confirmation to the customer.

The NASD also found that Tornaben failed to execute two public customers' orders and later advised one of the customers that her options position had been sold at a profit, when it had actually expired worthless. In addition, the findings stated that Tornaben effected unauthorized transactions in four public customers' accounts.

**Richard Clyde Watters (Registered Representative, Yakima, Washington)** submitted a Letter of Acceptance, Waiver and Consent pursuant to which he was fined \$75,000 and barred from association with any member of the NASD in any capacity. In addition, Watters must pay \$46,377 in restitution to his former member firm.

Without admitting or denying the allegations, Watters consented to the described sanctions and to the entry of findings that he received from a public customer a \$21,000 check intended for payment on an insurance policy. The NASD found that Watters failed to remit the sum for its intended purposes. Instead, he deposited the check to his personal account and made monthly payments on the policy. In addition, the NASD found that Watters effected unauthorized loans against customers' insurance policies, endorsed the loan checks, deposited the \$27,500 in his personal agent account.

The NASD also determined that Watters received \$5,000 cash from a customer for the purchase of a single premium policy, failed to remit the sum for its intended use, and opened a policy requiring quarterly premium payments. Watters made two payments, according to the findings, and then issued policy loans to cover additional pre-

mium payments. Furthermore, the NASD found that Watters received a \$5,000 check from another public customer to open an insurance policy that required no further premiums from the customer but failed to remit the sum for its intended use. Instead, the findings stated that Watters endorsed the check to his agent account, remitted \$2,500 to establish a policy with a larger face amount to receive a greater commission, and allowed \$13,000 in policy loans to be issued to cover subsequent premiums required by the policy.

#### **FIRMS EXPELLED FOR FAILURE TO PAY FINES AND COSTS IN CONNECTION WITH VIOLATIONS**

**Baring & Brown, Incorporated**, Chicago, Illinois

**Dow, Owen & Company, Incorporated**, Hilton Head Island, South Carolina

**New Century Securities, Incorporated**, Oceanside, California

**RCL Northwest, Incorporated**, Spokane, Washington

**Texas Independent Securities, Incorporated**, Arlington, Texas

#### **FIRMS SUSPENDED**

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of Article IV, Section 5 of the NASD Rules of Fair Practice and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after each entry. If the firm has complied with the request for information, the listing also includes the date the suspension concluded.

**America/Southwestern**, San Antonio, Texas (September 4, 1992)

**Butcher Financial Corporation**, Philadelphia, Pennsylvania (September 4, 1992)

**De Laoreal, Munroe Securities**, New York, New York (September 4, 1992)

**Francis Anthony Securities, Inc.**, Dallas, Texas (September 4, 1992)

**Hall, Curley & Co., Inc.**, New York, New York (September 4, 1992)

**Harold Pastron-Funded**, Northbrook, Illinois (September 4, 1992)

**Irving Lipsiner Associates**, Bethany, Connecticut (September 4, 1992)

**MLC Securities Corporation**, Ridgefield, Connecticut (September 4, 1992)

**Nederland Securities**, New York, New York (September 23, 1992)

**Nova Securities, Incorporated**, North Miami, Florida (September 23, 1992)

#### **SUSPENSION LIFTED**

The NASD has lifted the suspension from membership on the date shown for the following firm since it has complied with formal written requests to submit financial information.

**Marktech Securities, Inc.**, Trevese, Pennsylvania (September 4, 1992)

#### **INDIVIDUALS WHOSE REGISTRATIONS WERE REVOKED FOR FAILURE TO PAY FINES AND COSTS IN CONNECTION WITH VIOLATIONS**

John Brent Aldred, Reno, Nevada

Roger D. Alvey, Portland, Oregon

Don D. Arbital, Smithtown, New York

Gabriel A. Arcuri, Jr., Albany, New York

John Harold Ashley, Boca Raton, Florida

Stephen R. Banks, Destin, Florida

Todd C. Clark, Englewood, Colorado

Reo Bingham Cutler, Salt Lake City, Utah

Stephen J. Jones, Oceanside, California

Emory S. Logan, Hilton Head, South

Carolina

Victor T. Nostas, Wheat Ridge, Colorado

Igor G. Paransky, Brooklyn, New York

William W. Peterman, Woodstock, Virginia

James C. Popken, New York, New York

Thomas M. Rodes, Garrett Park, Maryland

Ted Lamar Romeo, South Windsor,

Connecticut

David L. Schumock, Sumner, Washington

Kevin J. Stafford, Tampa, Florida

Ronald G. Stone, Bardstown, Kentucky

Cyrus Veval, Troy, Michigan

Mickey W. Watkins, Jackson, Mississippi

James Allen West, Beverly Hills, California

William F. Wuerch, Mercer Island,

Washington

# For Your Information

National Association of Securities Dealers, Inc.

October 1992

## NASD<sup>®</sup> Adds New Member Service to NASDnet<sup>SM</sup> Electronic FOCUS System

The NASD<sup>®</sup> is offering a new service which gives member/designees the ability to provide clearing corporations and clearing firms with copies of FOCUS reports electronically. This service is available through the NASDnet<sup>SM</sup> electronic filing system currently used by all NASD member/designees to file FOCUS reports with the NASD.

Using NASDnet to collect FOCUS information will ensure that third parties receive FOCUS reports from members/correspondents promptly without risk of the filings being "lost in the mail." Because of the rigorous edits contained in the PC FOCUS<sup>SM</sup>/NASDnet system, the FOCUS data received will be accurate and complete. Electronic receipt of FOCUS data means that third parties

will no longer have to rekey the information. Using the NASD system to receive FOCUS data from correspondents will enhance risk management capabilities by enabling third parties to analyze correspondents' data much sooner and without any need to verify any of the information provided.

The cost for this new service will be \$100 a year for each firm forwarding FOCUS reports through NASDnet. This fee will cover telecommunications costs and will provide unlimited support for third parties and member/designees from our Customer Support Staff. The NASD will bill this amount to third parties at the beginning of each calendar year.

For more information, please contact Elizabeth Wollin at (301) 590-6887.

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## NASD Member Voting Result

As a member service, the NASD publishes the final result of member votes on issues presented to them for approval in the monthly *Notices to Members*. Most recently, members voted on the following issue:

- *Notice to Members 92-37* — Proposed

Amendment to Article III, Section 21 of the Rules of Fair Practice to Require Pre-dispute Arbitration Agreements to Include a Notice That Class-Action Matters May Not Be Arbitrated; **Last Voting Date: August 21, 1992.** Ballots For: 1,716; Against 365; and Unsigned 47.

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## NASD Conference in New York

The NASD is sponsoring a one-day educational seminar at the New York Vista Hotel in New York on Wednesday, November 4, 1992. Distinguished speakers will discuss topics such as mark-ups; supervision; trading of U.S. government, high-yield, and municipal securities; derivatives; collateralized mortgage obligations (CMOs); wrap-fee programs; arbitration; and compliance issues

facing today's compliance officers and securities attorneys. Featured speakers include Joseph R. Hardiman, NASD President and CEO, and Congressman Charles Schumer, Chairman of the House Judiciary Subcommittee on Crime and Criminal Justice.

For a conference brochure and further information, call Rosalie Tardi at (212) 858-4178 or fax your request to (212) 858-4189.