N-A-S-D *News*

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Registration Progress

Process now nearly complete. Sole proprietors should apply. Questions on registration answered.

More than 20,000 partners, officers, salesmen, traders and other employees of members became effectively registered with the Association on January 15 as "Registered Representatives." Those members from whom registration applications had not been received on that date were advised by the Executive Office of their failure to register their qualifying personnel. As this issue of the NEWS goes to press the registration process is nearly 100 per cent completed. For the first time, therefore, those engaged in over-the-counter distribution and trading of securities are formally "Registered Representatives" of members, having attained such classification by agreeing individually to abide by Rules of Fair Practice of NASD.

Unless a registrant is advised to the contrary by the Association all who have filed registration forms are now registered and qualified under the covering By-Laws. Similarly, new applicants for registration become effectively registered upon filing of their applications unless and until otherwise advised.

Bars to Registration

At present, it appears that approximately 50 who filed applications for registration as "Registered Representatives" may have a bar existing against being so registered. Such a bar could be either revocation of SEC registration or a State license as a broker-dealer, expulsion from NASD or an exchange, refusal of registration or license or NASD membership and a bar might exist were an applicant an employee and cause for an action such as mentioned. The Executive Office is making a careful study of the applications of those who signified one or more such obstacles to registration exists. Where the situations warrant, applicants will be advised of results of such study and of their rights in the circumstances.

The NEWS wishes again to call attention to the fact that ALL officers and partners of members should register unless they do not solicit, accept or supervise transactions in over-the-counter securities. ALL SOLE PROPRIETORS SHOULD APPLY FOR REGISTRATION AS "REGISTERED REPRESENTATIVES."

All salesmen and traders should become "Registered Representatives" as well as other personnel which even occasionally solicits or handles orders for over-the-counter securities. It is the feeling of the Association that

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NASD'S NEW CHAIRMAN

WM. K. BARCLAY, JR.
Resident Partner in Philadelphia of Stein Bros. & Boyce, Baltimore

New NASD Officers

Wm. K. Barclay, Jr., elected Chairman, H. W. Beebe and J. S. Jones, Vice Chairmen, J. J. Quail, Treasurer

Wm. K. Barclay, Jr., resident partner in Philadelphia of Stein Bros. & Boyce, of Baltimore, was elected Chairman of the National Association of Securities Dealers, Inc., by the Association's Board of Governors at the annual organization meeting, held at Hot Springs, Va., January 14 and 15. He succeeds Ralph E. Phillips, of Dean Witter & Co., Los Angeles.

Harry W. Beebe, of Harriman Ripley & Co., Incorporated, New York, was reelected Vice Chairman and June S. Jones, of Atkinson, Jones & Co., Portland, Oregon, was also named Vice Chairman. He succeeded R. Winfield Ellis, of Lee Higginson Corporation, Chicago, in that post. John J. Quail, of Quail & Co., Davenport, Iowa, was elected Treasurer, the office formerly held by Mr. Barclay; Irving D. Fish, of Smith, Barney & Co., New York, was elected Chairman of the Finance Committee, succeeding Hermann F. Clarke, of Estabrook & Co., Boston. Wallace H. Fulton was re-elected Executive Director.

Following the election, Mr. Barclay, as Chairman of the Executive Committee, appointed the following members of that Committee: Mr. Beebe, Mr. Jones, Mr. Quail; L. Raymond Billett, Kebbon, McCormick & Co., Chicago; Robert S. Morris, of Robert S. Morris & Company, Hartford; John J. Shober, of Woolfolk, Huggins & Shober, New Orleans, and Mr. Fulton, *ex officio*.

The members of the Finance Committee for the current year, in addition to Mr. Fish, are Mr. Barclay, Mr. Clarke, J. Robert Shuman, of Shuman, Agnew & Co., San Francisco, Norman Nelson, of Piper, Jeffrey & Hopwood, Minneapolis, and Mr. Fulton, *ex officio*.

NASD'S Nineteenth Board Meeting

Governors and District Chairmen gather at Hot Springs; committee reports received and problems of the securities business discussed

Association affairs including business conduct, quotations, "red herrings," uniform practice, examinations, registration of registered representatives, when-issued trading and a variety of other subjects commanded the attention of Governors from all parts of the country who attended the nineteenth Board meeting and the subsequent meeting of District Chairmen and District Secretaries of the NASD at Hot Springs, Virginia, January 14-17.

Seven new Board members took office at the meeting and the fourteen new district chairmen gathered together for the first time.

Ralph E. Phillips, of Dean Witter & Co., Los Angeles, presided throughout most of the board meeting until the election of William K. Barclay, Jr., Philadelphia, resident partner of Stein Bros. & Boyce, Baltimore, as chairman for the coming year occurred the afternoon of January 15. Mr. Barclay thereafter presided at the meeting of the District Chairmen and District Secretaries.

Wallace H. Fulton, Executive Director, reviewed the Association's activities in the past year. As is usual at Board meetings, the various committee reports submitted came in for thorough discussion. Business conduct decisions likewise were passed on. Securities dealers from different parts of the country took advantage of the opportunity to exchange ideas with one another, discuss the problems of the business and seek workable and fair solutions.

Retiring as a member of the Board of Governors from District Number 11, James Parker Nolan of Folger, Nolan & Co., Washington, D. C., aptly summed up "the aim of the Board and the main test of its success" as "service and protection to the entire membership as well as to the investing public."

Joseph C. Hostetler, of Baker, Hostetler & Patterson, Cleveland, who was one of the original drafters of the Investment Bankers Code, out of which the National Association of Securities Dealers developed, was present throughout the meeting and reviewed the steps leading up to formation of the Association.

Registration Progress

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where doubt exists as to whether an employee should be registered that it is in the member's interest and of the individual that the question be resolved by registering the person.

Here are questions and answers on maintaining registration:

Q. Should a member advise the Association when one of his "Registered Representatives" leaves his employ?

A. Yes and promptly.

Q. Should a member register new partners, officers, salesmen, traders, etc?

A. Yes. The Executive Office should be advised of such additions and forms for registration requested.

Q. If a "Registered Representative" changes residence should NASD be advised?

A. Yes.

Q. Must a registrant re-register if he changes employers?

A. Yes.

ONE CHANGE IN UNIFORM PRACTICE CODE

One amendment to the National Uniform Practice Code was made during 1945, Henry B. Rising of Whiting, Weeks & Stubbs, Boston, Chairman of the National Uniform Practice Committee, reported to the Board of Governors at their January meeting. This amended the formula by which the money value of part-redeemed bonds was computed. The amendment, which became effective December 15, last, constituted a mathematical method only and involved no change of principles.

During the year, the Committee effected final approval of "when-issued" contract forms in an attempt to standardize confirmation and settlement of these forms. The Committee also agreed to furnish to members on written request a description of the securities in which the members propose to trade on a "when-issued" basis, and many such requests were received and filled.

"The Committee now has before it eight suggestions for amendments and formal interpretations of the Code," the report said. "It also has been requested to devise and approve a standard form of confirmation which members may use to confirm 'when-issued' trades in which they have acted as agents for customers."

QUESTIONNAIRE OK'D

A questionnaire examination of all members will be made during the course of 1946. A resolution to this effect was approved by the Board of Governors at its meeting January 15 and, subsequently, at a meeting of District Chairmen and District Secretaries, the program for 1946 was organized.

This year's will be the fourth questionnaire examination to be conducted by the Association. District Chairmen and the Board of Governors endorsed a suggestion that personal examinations by staff examiners also be made as time, personnel and circumstances warrant. Such examinations would be particularly beneficial for members admitted during the past year, it was pointed out, and for additions to the membership this year.

Votes were taken at the meeting of District Chairmen and District Secretaries as to the kind of questionnaire to be used this year. The majority favored use of the form of questionnaire employed in 1944 when the inquiry was confined to principal transactions. In 1945, agency transactions were included and while it was generally agreed the facts elicited were helpful in directing attention to technicalities in confirmation use, the concensus was that the 1944 method was more effective.

Also voted upon by District Chairmen was the question of the number of transactions to be reported on the questionnaire. Resolutions were offered for 25, 40 and 50 consecutive transactions. The majority voted in favor of 40. In 1944 and 1943, a maximum of 50 transactions was called for. In 1944, so-called "proceeds" transactions were required and these will also be covered in this year's questionnaire.

The Executive Office is having questionnaire forms printed and will begin distributing these to members in the near future. Every effort will be made to time their distribution so as to interfere as little as possible with other periodic demands upon members' books, records and staffs.

Executive Director's Report

Wallace H. Fulton discusses 1945 developments and 1946 problems. Registration, examinations, unlisted applications among subjects covered

Following are excerpts from the report of Wallace H. Fulton to the Board of Governors, January 14, 1946:

This is the 19th meeting of the Board of Governors of the National Association of Securities Dealers, Inc. The first organization meeting of the Board was held in January, 1940, so that this is the 7th such meeting.

At the January meeting each year seven Board members take their leave. This year three of the men who are retiring have served as Chairman of this Board (Messrs Riter, Chapman and Phillips). Each of these men, in turn, gave fully of his time and efforts to promote and strengthen N.A.S.D. and thereby to advance the interests of the business. It was a privilege and a pleasure to be able to work in close cooperation with each of them. No one knows better than I how earnestly and unselfishly they worked for this Association.

* * * *

My report will be divided into two parts: the first to be devoted to a review of 1945, and the second to a brief discussion of some of the things that face us in the coming year.

In retrospect, the year 1945 produced two developments within N.A.S.D. One was a steady climb in membership; the other, the decision of the Board to require registration of individual partners, officers, proprietors, salesmen and traders in order that these would individually agree to abide by the Rules of Fair Practice.

Membership

From a high mark of 2,917 in August, 1941, membership declined steadily the first two years of the war, reaching low ebb of 2,180 in March, 1944. From that point the total ranged around 2,200 until last January, when it began to rise. Each month last year produced net gains in membership so that, on December 31, the total of 2,372 was the highest since September, 1942. The net gain for the year was 158 members. Many of the members added during the year had previously been exclusively municipal dealers.

The growth in membership is both gratifying and sobering.

Registration

At the meeting of the Board last June, acting on recommendations of a Special Committee, amendments to the By-Laws, Rules and Code were approved for submission to vote of the membership. The amendments provided for registration with the Association of each "registered representative" associated with and employed by members. The amendments were voted on in July and approved by members, 1,022 to 605. The Securities and Exchange Commission thereafter held a public hearing at which testimony was taken both for and against the amendments. The Commission allowed the amendments to become effective the middle of September, after which the forms were distributed to members. On January 2, 30 dealers, including 3 who are not members of the Association, filed a petition in the U. S. District Court in New York, with the result that that Court issued an order calling upon the Securities and Exchange Commission, on January 11, to show cause why it should not formally dispose of this matter by means of an appropriate order declaring the amendments effective. The petitioners later withdrew their petition for such an order, advising the District Court that they intended to appeal to the U. S. Circuit Court. Under the Act, amendments to the By-Laws, etc., duly approved by vote of members, are required to be filed with the SEC and, unless disapproved, become effective 30 days after filing, with or without an opinion from the Commission. The Commission, in this instance, handed down an opinion (no "order" being necessary) in which it found that charges made by the opposition had not been sustained and that the Board of Governors had acted properly within its powers.

We endeavored to make the act of registering as simple as possible. The machinery that has been set up to initiate and maintain registration records was developed as a result of many conferences. I believe we are using an efficient and economical system. The effective date for registration being tomorrow, January 15, we do not at this time have complete records of those who, in responding to the registration form, showed or indicated possible disabilities. However, of the 11,872 forms of registrants inspected to date, 257 answered one or more of the questions affirmatively, thereby signifying that there existed in the past, and may at present, some action which would disqualify them. Of this 257, however, only about 50 would appear to have current disqualifications existing against them, such as expulsion or suspension from N.A.S.D. or a stock exchange, refusal of membership in either, refusal or cancellation of a state license or refusal or revocation of SEC registration. A letter has been prepared to be sent to members who

(*Continued on next page*)

WHEN-ISSUED CONTRACTS

Wallace H. Fulton, Executive Director of the Association, in his annual report, commented as follows on the need to surround trading in when-issued securities with adequate and acceptable safeguards:

"You are all, I am sure, conscious of the necessity of surrounding trading in when-issued securities with sound business safeguards. The need here is for agreement as to ways and means of applying such safeguards and of providing for delivery procedures so that when-issued contracts can be completed promptly and without controversy. Some months ago, conferences were had with the New York Stock and New York Curb Exchanges and with the Securities and Exchange Commission. We have also exchanged views with the Chicago Stock Exchange and other interested parties. The subject is one that, of late, have been increasingly of concern to the Federal Reserve Board and the SEC. It appears desirable that we continue our efforts to resolve this problem on a practical and acceptable basis."

Examinations

have not as yet filed registration statements, and appropriate resolutions have been drafted for consideration of the Board later at this meeting.

Again in 1945, as in the preceding two years, a questionnaire examination was made of every member of the Association. The questionnaire used last year was discussed at a meeting of District Chairmen in New York early in February. The approved form was distributed to members at intervals during the year, returned to the Executive Office for processing and thereafter was sent to the member's District Committee. A total of 2,262 questionnaires were sent in 1945, of which but one remains outstanding in the hands of the member. On December 31, 592 were still in the hands of District Committees. We have not been able to make a complete study of mark-ups as revealed by the questionnaires. The results of a rather liberal sampling—a total of 21,523 principal transactions—however, indicate that approximately 87% of transactions reported were made at mark-ups of 5% or less. In 1944 82% of transactions reported on the questionnaires were at 5% or less, and in 1943, 71%.

The letter of October, 1943, setting out the 5% policy is not, of course, solely responsible for this change in mark-up practices of members; growth in volume of business, expansion in the aggregate of investment funds, and higher security prices generally contributed to the showing. The vast majority of the membership, having been supplied a guide for pricing of securities sold to customers, has applied it to their business, the statistics demonstrate.

In 1945, 16 complaints were filed by Business Conduct Committees. That compares with 20 in 1944, 50 in 1943, 57 in 1942 and 120 in 1941. Diminishment of the mark-up problem is shown in those contrasts and I am certain that if this Board is gratified with results of the past two or three years, the Board serving in 1941 when enforcement work was undertaken on an aggressive scale would feel doubly so. *Then* the problem was pressing hard for solution. Satisfaction with what has been accomplished should reinforce this Board's purpose to keep a firm control.

Unlisted Applications

We are awaiting a decision of the Securities and Exchange Commission on the latest application of the New York Curb (joined in this instance by the Chicago Stock Exchange) to obtain unlisted trading privileges in a utility company common stock. The Board four years ago decided that all such applications of exchanges should be reviewed to establish the propriety of intervention by us in opposition to the granting of the applications, particularly when they seek to draw off from the over-the-counter markets securities traded in those markets. In the case under discussion, the exchanges applied for unlisted trading privileges in United Light and Railways common stock. The issues involved in the case are highly technical, but disposition of each such case serves to clarify application of the legislation to practical questions. It will be recalled that early last year, N.A.S.D. intervened on applications involving five active over-the-counter common stocks and the Commission denied the Curb's applications.

In respect to one of these, Puget Sound Power and Light common, the Commission in the past year granted extensions of time to the Curb and to the issuer, the effect of which was to keep the issue traded on an unlisted basis with the Curb. We sought to bring this matter to a head on two such extensions, without success, but late in December the Commission finally refused a further extension asked by the Curb, so that now the security is traded exclusively in the over-the-counter market.

We will, of course, continue to examine exchange applications for unlisted trading privileges in issues traded in our markets.

P.S.I.

Since receipt of the SEC decision in the P.S.I. case, the Executive Office has refunded a total of $6,410 of an aggregate of $6,700 collected in fines.

Member Meetings

As reported at previous meetings of this Board, the Chairman and I visited a number of Districts during 1945. The year started with a meeting in New York immediately after the January Board meeting, and subsequently we attended meetings on the Pacific coast—Seattle, Portland, Los Angeles and San Francisco. We also visited Minneapolis and Milwaukee. I also attended District Committee meetings and meetings of members in other sections, the latest one being a meeting of North and South Carolina members at Asheville, North Carolina. In November, I attended the annual convention of the National Association of Securities Commissioners and spoke on "Regulation vs. Regimentation" and in particular on the work of NASD.

The Year Ahead

As for 1946, the Board at this meeting will be asked to decide policy on certain projects. From the standpoint of the continuing work of the Association, the most important of these is the examination program and the kind of program to be carried on. [See page 2 for 1946 Program Information]. We have employed a questionnaire in each of the last three years. Considered in respect to information secured as to members' pricing practices, the program has more than justified itself. However, it has been an irritant to a number of members. Any inquiry, no matter how innocuous or simple, meets with a certain amount of objection. So it seems reasonable to say that a good-sized body of the membership would welcome relief from questionnaires. *I* feel we may have gone as far as we can, for the time being anyway, in real, practical accomplishments via questionnaires. I have some reservations about what could be obtained from a questionnaire this year, beyond a reiteration of facts and figures already at hand. However, as will be reported to the Board, some of the District Committees favor continuation of questionnaire use.

We have considered other forms of inquiry by which we might obtain broader insights into members' practices. For instance, it has been said that excessive trading or churning of some types of accounts has recently become a problem. Some evidence of this has come to our attention. We have considered inquiring into this particular subject through a questionnaire but can hit upon no satisfactory method. It is not the type of thing which can be spelled out in precise terms on a questionnaire and, failing that, the only recourse would be to call upon the members for possibly voluminous reports—which would not be popular, I am sure. I believe, and have always believed, that the most useful and effective method of examination is by personal call on the member by a staff examiner. In 1941, and for a time in 1942, such examinations were made. Examinations of this kind are not fishing expeditions. They

Finance Committee Chairman Reports

Calls attention to NASD's sound financial position; recommends that system of assessing members be reviewed

By Herman F. Clarke, *Chairman, Finance Committee* (1945)

The Annual Report [published in the December 1945 issue of the NEWS] showed that the Association was comfortably situated at the end of the last fiscal year, September 30, 1945. The assessments levied for the current fiscal year ending next September should produce an ample surplus.

One of the primary assignments of the Finance Committee is to arrive at ways and means of raising the funds necessary to defray expenses of the Association in the year that lies ahead. Last August your Finance Committee held a meeting for that purpose. It had budgets of the several District Committees and of the Executive Office.

Calculation and computation of assessment bases and their effect is not an exact science. Alongside of estimates as to possible expenditures the Committee had voluminous data on assessment schedules—several variations of the established bases and probable income to be derived from each. In fixing assessments for the current year, the Finance Committee selected a schedule which represented reductions all along the line in basic rates—10 per cent or so. Due to the fact that underwritings in the year ended last June were larger than for several years, these reductions could not be reflected in the assessments of underwriting members whose bills were very much larger than for the preceding year and in many cases larger than ever before. On the other hand, the largest underwriters, being regularly in or around the $5,000 or ceiling bracket, had moderate increases in bills or bills identical to previous years. In one or two cases that have come to my attention since assessments were levied, the result, on the face of it, would seem to be unfair to some houses. Also, there is some question in my mind as to the fairness of the impact upon smaller underwriting houses of the schedule of assessments. Many of these undoubtedly feel that they are paying too high an amount, relative to larger firms.

It is my own belief, and I submit this as a recommendation to the Board, that the whole system of assessing members should again be reviewed. A representative group of men—none of whom would be Governors—should be appointed by the Chairman and given the task of making a careful study of the assessment method and of submitting their findings and recommendations to the 1946 Finance Committee. Perhaps a better and more equitable process can be discovered and a fairer allocation of the burden can be effected. If so, the efforts of this Committee will be of value to the Finance Committee in determining the bases for next year's assessment.

In the meantime, there is satisfaction for the Finance Committee in the fact that the financial position of the Association has been restored to a sound condition. Deficits in 1942 and 1943 had so curtailed surplus that it was very essential that it be strengthened.

REPORT OF THE TREASURER

William K. Barclay, Jr., retiring Treasurer and incoming Chairman of the Association, in his annual report to the Board of Governors called attention to the statement of income and expenditures for the fiscal year ended September 30, 1945, and the balance sheet as of that date, both of which were published in the December issue of NASD NEWS.

The income account shows total income for the year of $414,815, expenditures of $306,356, leaving a surplus of $108,460. Surplus at the end of the previous year was $125,611 which, added to surplus for last year, plus $29,295 taken into surplus from fines collected in previous years, made total surplus as of September 30, last, $263,365.

Director's Report

(*Continued from Preceding Page*)

should be intended as aids to members and as preventives of loose procedures. If examinations are to be made this year some Districts would vote, however, in favor of the questionnaire method. The answer is not, I believe, to allow a District which prefers one method to another to exercise its preference. It was because of lack of uniformity in this work that the Board three years ago decided on national questionnaire examinations.

The addition of hundreds of new members is another factor to be considered on the question of examinations. Many of our new members have either been away from the business for a year to five years, and longer, have not before been principals of firms or are absolutely new in the business. They need and ought to be apprised of the responsibilities of membership and how they may best protect their own interests through conduct of their businesses in conformity with the Rules of Fair Practice and State and Federal laws, including the regulations thereunder. An ounce of prevention in that field for old as well as new members will be worth many pounds of cure for the business at large and the individual members.

Quotations

Another matter which seems to deserve re-examination by the Board during the present year is the policy guiding us on quotations of over-the-counter securities published under the sponsorship of the Association. To refresh the memory of present members of the Board and to bring the information before the new members, it is worth recalling that, in 1944, acting on recommendations of a newly-constituted National Quotations Committee, the Board adopted a new system and accepted a new principle for the compilation of such quotations. Instead of using formulas for spreading inside bid and asked prices, published quotations were to be actual retail prices at which members would trade in securities with the general public at the time the quotations were gathered. It should be recalled that the Board approved this system because the Securities and Exchange Commission, in a formal letter to the Association by the Director of its Trading and Exchange Division, Mr. Treanor, had declared that the formula method produced quotations which were fictitious.

The change-over meant that old sources of quotations had to be familiarized with the new method, new sources for hundreds of quotations had to be found, and, in general, entirely new methods had to be devised for doing the job. Mr. Unterberg, the Chairman of the Committee, has labored hard at this task.

The quotations problem, as I am sure every one of you is aware, has always been with us. It is still with us.

The Oxford Company Decision

NASD Governors have analysis made of SEC dicta for guidance of members; the broker-dealer relationship; Justice Douglas' views on absence of inventory

Because of widespread interest among members in the recent decision of the Securities and Exchange Commission in the matter of Oxford Company, Inc., and its possible implications, the Association's Board of Governors had prepared an analysis of that decision, which was transmitted directly to members for assistance and guidance in the transaction of their business. The analysis, covering broad aspects of the decision, follows: (If you wish additional copies of this analysis for salesmen, etc., write to the Executive Office for them.)

The basis of the Commission decision

The Commission has distributed copies of this decision to all members and it is therefore unnecessary to summarize the background and the facts upon which the Commission found that the respondent had been commissioned to act as agent and had violated the anti-fraud provisions of the Securities Laws in cross-transactions between two aged and uninformed customers.

Dicta in Commission decision upon solicited simultaneous transactions

Having found that the respondent had violated the anti-fraud provisions of the Securities Laws in the cross-transactions, the Commission thereafter made the following observations:

"It appears from the evidence *in this case* that respondent solicited from its customers *orders* to purchase specifically recommended securities when it knew that upon receipt of such *orders* it would have to go out into the market to obtain the securities in order to be able to fill the *orders.*

"It has been urged that, *under such circumstances,* the firm was free to act as a dealer. This argument cannot stand when realistically viewed and tested against the provisions of the Exchange Act. Section 3(a)(4) defines the term 'broker' as 'any person engaged in the business of effecting transactions in securities for the account of others . . .' A firm which makes a purchase to fill an *order* solicited by it when it knew it did not have the securities on hand is making that purchase for its customers—in fact and within the meaning of the Act. Such a transaction is, therefore, a brokerage transaction under the statute, and it is a brokerage transaction apart from the fact that the particular customer may be (as was true in this case) especially reliant on the firm by reason of particular trust, confidence or infirmity. Under these circumstances, the firm must fulfill the obligations of brokerage in the transaction: among other things, to refrain from acting adversely, to refrain from taking secret profits, to make the best deal for the customer at the best price obtainable, and to confirm as agent making specific disclosure of the amount of its remuneration. *In transactions such as we have outlined* the firm placed itself in a brokerage position and it could not choose to act otherwise. Nor could it relieve itself of the necessity under the statute of acting as a broker by sending a confirmation as a purported 'principal'. The decision initially made by the firm to recommend the purchase of a security which it did not own was a voluntary decision which committed the firm to the role of brokerage. *That role could not be changed without explicit and informed consent* in each case prior to the completion of the transaction or explicit and informed ratification afterwards and *non-action of the customer upon the receipt of a principal confirmation did not, in our opinion, constitute such ratification.*

"However, these views do not, of course, apply to a course of dealing with a customer (as, for example, a bank or insurance company) *who does not desire to deal with a firm as a broker and who understands the precise status occupied by the firm.*

"To hold that a securities firm can, *under the circumstances outlined in this case,* validly act as a principal would be to ignore the meaning of the act, and permit the firm, without particular, explicit, and informed consent, by a mere play on words, to shift its position in the course of the transaction to suit the convenience of the moment. That respondent attempted to do in violation of the anti-fraud provisions of the Exchange Act." (Emphasis supplied in the above extract from the SEC release.)

Analysis of Commission decision and the broker-agent relationship

These statements relating to solicited *orders* for securities not owned by the broker-dealer are dicta of the Commission, as they were not necessary for a determination of the violations which the Commission had already found. They do not constitute a rule or regulation of the Commission. They are expressly based upon, and must be viewed in the light of, the facts in this case, and do not change, or purport to change, the law of agency. It is no novel concept that where a broker-dealer is in fact the agent or broker for a customer as a result of specific instructions or orders creating agency, the broker-dealer must confirm to the customer as an agent and fulfill the obligations of agency outlined by the Commission. Failure so to do constitutes a violation of the common law, of the Securities Acts, of the Commission Rules and of the Association Rules prior to this decision of the Commission and at the present time.

The agency or brokerage relationship exists if the customer manifests an intention to have the broker-dealer act for the customer or for his account and the broker-dealer expressly or impliedly consents so to act. In this case there had been express order or instruction of agency from Mrs. Dunton to "sell for me and buy something in its place." The respondent had acted upon that "order." Accordingly, the Commission stated that "respondent solicited from its customers *orders* (which, used with the meaning of "instructions," establishes the existence of agency) to purchase specifically recommended securities when it knew that upon receipt of such *orders* it would have to go into the market to obtain the securities in order to fill such *orders.*"

On the other hand the relationship of a sale by the broker-dealer as principal to the customer exists when the customer gives his explicit and informed consent to a purchase from the broker-dealer as principal. If the customer does not manifest an inten-

tion to create the agency relationship by giving an instruction or order to "purchase for me," "for my account" or other similar order for agency, but agrees to buy from or sell to the dealer as principal and knows, or is informed of, the difference between principal and agent, the dealer is acting as a principal.

One of the characteristics or earmarks of an agency transaction is the circumstance that the broker-dealer did not sell the securities out of his inventory and similarly one of the characteristics of a principal transaction is the circumstance that a broker-dealer sold the securities out of his inventory. These indicia are not necessarily controlling when the facts show the customer on the one hand intended to create an agency relationship or on the other hand intended or consented to purchase from the dealer as principal.

If a broker-dealer does not have in his inventory the securities which he solicits his customer to purchase, whether there has been a violation of the statutory or common law of fraud will still depend upon all the circumstances of the transaction at the time it was made. Similarly a broker-dealer may not confirm the sale as principal to a customer of securities which he holds in his inventory if the facts at the time of the transaction indicate that agency was intended by the customer. Thus, in discussing the characteristics or earmarks distinguishing a dealer as principal from a broker or agent, William O. Douglas, formerly Chairman of the Securities and Exchange Commission and presently an Associate Justice of the Supreme Court of the United States, has stated (43 Yale Law Journal 46, 61; November 1933):

"He is nonetheless a dealer even though he had no inventory but was acquiring securities for his customer from any of several sources in the manner of any merchant. For a 'broker' to sell from his own inventory would establish that he acted as a dealer; but *it is not true,* conversely, *that the asbence of an inventory makes him an agent.* That alone would not discriminate between an agent and a dealer, though it would be evidence to be weighed along with other of the criteria mentioned." (Emphasis supplied.)

A broker-dealer did not have, and does not have, an *option* to confirm a particular transaction to a customer either as agent or as principal. The facts which determine whether a principal or an agency relationship exists are based upon the nature of the transaction at the time the transaction is made, and the transaction must be confirmed in accordance with those facts. Mere non-action by the customer upon receipt of a confirmation as principal of a transaction which was in fact brokerage does not alone constitute a ratification by the customer.

That a firm does not have an option to change, and may not change, at will its relationship to a customer from agency to principal merely by issuance of a confirmation of sale as principal is illustrated by the respondent's purported purchase of Morris Plan Bank preferred stock from Mrs. Dunton in the *Oxford* case, where the prior course of dealing and the specific instructions at the time of the transaction required an agency confirmation. It is also illustrated by the *Investment Registry of America* case, decided by the Commission January 11, 1946 (Securities Exchange Act Release No. 3772), where the respondent had generally acted as agent for its customers for a long period and, upon learning that its agency confirmation lacked adequate disclosures, it merely shifted to a general use of a principal confirmation. Citing its decision in the *Oxford* case, the Commission held that the broker-dealer could not change its relationship to its customers from agent to principal without the specific and informed consent of its customers.

In order to avoid any claim of fraud under the Securities Acts or at common law, a broker-dealer acting as principal in the sale of securities to customers, whether the securities are held in inventory or not, should be satisfied that at the time of the transaction the customer is informed of the difference between principal and agent, "understands the precise status occupied by the firm," and intends or consents to make the purchase from the dealer as principal.

The extent of information or advice which should be given to customers or which a customer should possess in order to give explicit and informed consent to a purchase from a dealer as principal is not susceptible of precise or all-inclusive statement and might vary with each customer. In the last analysis, whether there is a violation of the common law or the Securities Laws and the Commission Rules thereunder depends upon the application of the law of fraud to all the circumstances of each particular case. When transactions are made by salesmen or other representatives of members it is not always possible to determine whether in the case of principal transactions the customer "understands the precise status occupied by the firm," or whether the customer actually gave orders or instructions for his purchase or sale through the broker-dealer as agent. Each Association member would be well advised to re-examine his business practices and his customer relationships to make certain that his selling organization understands and makes practical use of the principles outlined in this letter, and to consult and be guided by the advice of his counsel as applied to his individual situation.

"RED HERRINGS"

Unless there is a change in the Securities Act itself which would relieve underwriters of the liability involved in the "red herring" prospectus, there is no hope of solving the problem of getting the maximum amount of information about forthcoming issues into the hands of dealers throughout the country well in advance of the day of offering.

This is the sense of a report of a special NASD Committee of which James Parker Nolan, Washington, was Chairman. The report pointed out that since last May when the SEC announced a policy to the effect that it would not accelerate a registration statement where a "red herring" prospectus with material omissions had been issued unless it had evidence that all persons who, receiving the "red herring" prospectus, also received not only a final prospectus but a tie sheet indicating the changes in the final as compared with the "red herring." As a result, underwriters have restricted their distribution of "red herrings."

It was suggested by the Committee, however, that other sources of much of the information which ordinarily appears in a "red herring" are usually available to dealers and that perhaps for the time being at least the solution is to be found in wider use of those sources.

DISTRICT CHAIRMEN AND SECRETARIES

The 1946 District Chairmen, who constitute the Association's Advisory Council, and the District Secretaries are as follows:

DISTRICT	CHAIRMAN	SECRETARY
1	Leland L. Rice, Paine-Rice & Company, Spokane	D. J. Conway, Portland
2	J. Lester Erickson, Wm. R. Staats Co., Los Angeles J. P. Woollomes, V.Chrm., Wulff, Hansen & Company, San Francisco	George Stephens, San Francisco
3	J. Wallace Coxhead, Bosworth, Chanute, Loughridge & Company, Denver	Albert J. Gould, Denver
4	Guy M. Phillips, Caldwell, Phillips Co., St. Paul	I. D. Owens, Allison-Williams Co., Minneapolis
5	--	Robert M. Zehring, Kansas City, Mo.
6	R. N. Eddleman, R. N. Eddleman & Company, Houston	------------------------
7	Lawrence J. Gable, Taussig, Day & Co., St. Louis	Charles S. Glazer, St. Louis
8	Sampson Rogers, Jr., McMaster Hutchinson & Co. Chicago	John F. Brady, Chicago
9	Jo Gibson, Jr., Webster and Gibson, Nashville	Hugh M. Dorsey, Jr., Atlanta
10	John E. Joseph, John E. Joseph & Co., Cincinnati	Sheldon D. Clark, Cleveland
11	Charles H. Pinkerton, Baker, Watts & Co., Baltimore	Martin J. Bayly, Philadelphia
12	S. Davidson Herron, Mellon Securities Corp., Pittsburgh, and George L. Morris, Hornblower & Weeks, Philadelphia, Co-Chairmen	Martin J. Bayly, Philadelphia
13	T. Jerrold Bryce, Clark, Dodge & Co., New York	Frank L. Scheffey, New York
14	Carrell K. Pierce, H. M. Payson & Co., Portland Me.	Waldo S. Kendall, Boston

NEW NATIONAL COMMITTEES

The following National Committees, in addition to the Executive and Finance Committees, the composition of which is reported in a separate article, were appointed for the current year by Chairman Wm. K. Barclay, Jr., at the Association's annual organization meeting:

National Business Conduct Committee—L. Raymond Billet, Chairman, Kebbon, McCormick & Co., Chicago; Robert C. Kirchofer, Kirchofer & Arnold, Inc., Raleigh; Joseph L. Ryons, Pacific Company of California, Los Angeles; W. Rex Cromwell, Dallas Rupe & Son, Dallas; B. Winthrop Pizzini, B. W. Pizzini & Co., Inc., New York; Burdick Simons, Sidlo, Simons, Roberts & Co., Denver; Firmin D. Fusz, Jr., Fusz-Schmelzle & Co., St. Louis.

Quotations Committee—George Geyer, Geyer & Co., New York, Chairman; Richard W. Simmons, Lee Higginson Corporation, Chicago; Albert C. Purkiss, Walston, Hoffman & Goodwin, Los Angeles; Samuel K. Phillips, Samuel K. Phillips & Co., Philadelphia.

Uniform Practice Committee—Harold C. Patterson, Chairman, Auchincloss, Parker & Redpath, Washington, D. C.; Wilber W. Wittenberg, Vice Chairman, Blyth & Co., Inc., Minneapolis; Reginald Martine, Harriman, Ripley & Co., Incorporated, New York; Reuben Thorson, Paine, Webber, Jackson & Curtis, Chicago; W. B. Brown, William R. Staats Co., Los Angeles; Chauncey P. Colwell, Merrill Lynch Pierce, Fenner & Beane, Philadelphia.

Investment Trust Underwriters Committee — Herbert A. Bradford, Chairman, Calvin Bullock, New York; Herbert R. Anderson, Distributors Group, Incorporated, New York; Chas. F. Eaton, Jr., Eaton & Howard, Incorporated, Boston; Hugh W. Long, Hugh W. Long and Company, Incorporated, New York; David T. Sanders, Vance, Sanders & Company, Chicago; S. L. Sholley, The Keystone Corporation of Boston, Boston; Henry J. Simonson, Jr., National Securities & Research Corp., New York.

Public Relations Committee—Henry G. Riter, 3rd, Chairman, Riter & Co., New York; James Coggeshall, Jr., The First Boston Corporation, New York; James Parker Nolan, Folger, Nolan Incorporated, Washington, D. C.; Ralph E. Phillips, Dean Witter & Co., Los Angeles; Francis F. Patton, A. G. Becker & Co., Incorporated, Chicago.

Advisory Committee to Finance Committee—1946-47 Assessment—Joseph T. Johnson, Chairman, The Milwaukee Company, Milwaukee; John S. Fleek, Hayden, Miller & Co., Cleveland; T. Jerrold Bryce, Clark Dodge & Co., New York; Almon A. Greenman, Greenman & Cook, Inc., St. Paul; S. L. Sholley, The Keystone Corporation of Boston, Boston; John M. Young, Morgan Stanley & Co., New York; Orrin G. Wood, Estabrook & Co., Boston.

Committee on Research in the Capital and Securities Markets—W. Yost Fulton, Chairman, Maynard H. Murch & Co., Cleveland; B. Earle Appleton, Pearson, Erhard & Co., Bos-

(Continued on Page 12, Column 3)

REVOCATION

Company's registration as Broker-Dealer and Investment Adviser is revoked by SEC.

The Securities and Exchange Commission on January 10 announced the revocation of the broker-dealer registration and also the investment adviser registration of a company whose business involved the recommendation and execution of purchases of securities, the sale of customers investments and the rendering of analytical service to subscribing clients. The broker-dealer registration was revoked because of fraud in sale of securities, secret profits and false bookkeeping entries. The investment adviser registration was revoked for mis-statement of policy in the application to register.

The officers and principal owners of the company—Investment Registry of America, Philadelphia—had formed another corporation in 1917 and the company involved in the proceedings two years later. In 1922 all assets of the original corporation were transferred to the newer company in exchange for all of the latter's common stock; the parent thereupon became inactive. In 1930 the company which was the subject of the proceedings authorized the issuance of no par preferred and preference stock and new common stock, the avowed purpose being to exchange the new securities for the common stock held by the parent. This exchange was not undertaken until 1940 and in the meantime certain shares of preferred stock were sold publicly at an average price of $25.75 per share. During the same year in partial execution of the exchange originally authorized in 1930, the company issued to its parent, preferred and preference stock, the original old common held by the parent then being cancelled. All of the new common stock was issued directly to the principal owners and officers of the respondent company.

Having been unprofitably operated for several years and needing new money, the company undertook another recapitalization under which each share of preferred stock was to be exchanged for one share of new preferred, plus one and one-half shares of new preference stock. The new preferred stock was authorized and publicly offered at $20 per share. This offer was not only on behalf of the company but also on behalf of those persons entitled to receive new preferred stock in exchange for old preferred and who wished to offer other new preferred to the public "co-incidental with the company's offering." Since the principal owners and officers had accumulated large amounts of the new preferred the "co-incidental" offering was a benefit to them, derived in direct competition with the company which then needed capital badly.

In the public offering the company circulated a prospectus containing many "materially false and misleading items" in violation of the Securities Act of 1933 and the Securities Exchange Act of 1934.

In transaction with customers, the Commission found frauds, some described as "outright and crude." The company confirmed sales as agent for customers, took secret profits by falsely stating sales prices and by deducting from the reported proceeds, excess charges for interest, etc.

Many of the securities customers were also investment advisory clients who had agreed to pay a fee not exceeding 5 per cent for the company's "selection" of securities they purchased. However, charges as high as 9 per cent were in fact made.

The company's confirmation of purchases did not tell customers what the company paid for the securities nor itemize the fees. The Commission found that the practice violated not only the SEC general rules relating to fraudulent practices, but also the rule requiring a broker to disclose in his confirmations, the source and amount of commission or other remuneration in connection with the transaction.

Section 207 of the Investment Advisers Act makes it unlawful "for any person willingly to make any untrue statement of a material fact in any registration application or report filed with the Commission * * * or willfully to omit to state in such application or report any material fact which is required to be stated therein."

In applying for registration as an investment adviser, the company stated that it gave unbiased investment advice to clients, that its contracts provided for a maximum 5 per cent fee for the selection and purchase of securities, that it neither accepted clients' securities or funds for custody.

The Commission's opinion declared that the company's practices in dealing with customers demonstrated that the registration statement misstated and concealed essential facts; further that, the company "did not limit itself to the stated fees, but in many cases overcharged for services and took secret profits by other devices." The Commission found that not only did the company have customers' securities in custody, but hypothecated them in contravention to its stated policy. All of these acts violating section 207 of the Investment Advisers Act.

The Commission indicated that in the interest of public holders of the preferred stock, it might later consider an application for re-registration if examination showed that the company had been reorganized and its control and management changed.

Revocation of its broker-dealer registration automatically debarred the company from membership in NASD.

SERVICE BEYOND GROUP OR SECTION

James Parker Nolan, of Folger, Nolan Incorporated, Washington in remarks made at a Governors' meeting, offered the following as his conception of the obligation which a NASD Governor assumes on taking office:

"The word 'democracy' has been used in many confusing ways. Representation of minorities has often been confused with group pressure. Within the N.A.S.D. it is sometimes urged, in the name of democracy, that the Stock Exchange membership, traders, small dealers or other special-interest groups should be directly represented as such on the Board of Governors. These demands overlook the fact that *the essential purpose of a Board of Governors is to represent the membership as a whole* in the best interests of all members.

"Although each governor is elected by the members of his own area, on taking office he assumes a responsibility to the whole securities business. He cannot give proper consideration to his obligation if he considers his primary duty that of advocate for some special interest. The aim of the Board, and the main test of its success, is to serve and promote the interests of the entire membership as well as the investing public."

Districts Report Membership Rise

Every region registered a gain in membership in 1945, the total for NASD increasing by 158

The year-end total of NASD membership, 2,372, represents an increase of 158 compared with the total on December 31, 1944, and a gain of 33 over the membership of 2,339 on December 15 last, 16 days earlier, reported in the last issue of the NEWS.

There was a rise in membership in each of the Association's 14 Districts during the past year. District No. 13 had the largest increase, 56, New York City contributing 49 of that total. District No. 8 (Chicago area) reported a gain of 19 and District No. 2 (California) a gain of 16.

A comparison of membership totals by Districts and States at the close of 1944 and 1945 follows:

NASD MEMBERSHIP, 1944-45

	Dec. 1944	Total	Dec. 1945	Total
District #1:				
Idaho	2		2	
Oregon	20		22	
Washington	45	67	44	68
District #2:				
California	144		159	
Nevada	3	147	4	163
District #3:				
Arizona	4		6	
Colorado	30		29	
New Mexico	1		2	
Utah	3		4	
Wyoming	0	38	0	41
District #4:				
Minnesota	42		46	
Montana	0		0	
North Dakota	1		1	
South Dakota	0	43	0	47
District #5:				
Kansas	16		18	
Missouri (West)	20		18	
Oklahoma	5	41	7	43
District #6:				
Texas	48	48	60	60
District #7:				
Arkansas	6		8	
Kentucky (West)	0		0	
Missouri (East)	50	56	49	57
District #8:				
Illinois	157		166	
Indiana	37		36	
Iowa	17		19	
Michigan	44		52	
Nebraska	21		21	
Wisconsin	44	320	45	339
District #9:				
Alabama	14		18	
Florida	17		17	
Georgia	19		21	
Louisiana	26		29	
Mississippi	0		1	
South Carolina	17		19	
Tennessee	27	120	27	132
District #10:				
Kentucky (East)	12		13	
Ohio	105	117	112	125
District #11:				
District of Columbia	16		18	
Maryland	27		27	
North Carolina	19		23	
Virginia	17		19	
West Virginia	3	82	7	94
District #12:				
Delaware	5		5	
Pennsylvania	160	165	163	168
District #13:				
Connecticut	38		39	
New Jersey	47		48	
New York City	587		636	
New York State (except N. Y. C.)	101	773	106	829
District #14:				
Maine	23		27	
Massachusetts	146		147	
New Hampshire	6		8	
Rhode Island	21		23	
Vermont	7	197	1	206
TOTAL		2,214		2,372

$500 FINE

A fine of $500, censure and costs were imposed by a District Business Conduct Committee upon a member found guilty of violating Rules of the Association by payment of commissions to salesmen and a partner of other members of the Association.

The basis of the complaint against the member developed from inquiries which disclosed that he had, over a period of sixteen months, paid to five men, three of whom were associated with other members, sums ranging from $181 to $2,300.

The complaint against the member alleged violation of Rule 1 ("a member in the conduct of his business shall observe high standards of commercial honor and just and equitable principles of trade"), Rule 10 ("no member shall . . . give . . . anything of value to any employee . . . for the purpose of influencing or rewarding the act of such employee . . .") and Rule 25 (prohibiting discounts to non-members).

In passing on the issues involved, the District Committee said in part:

"If other member firms were permitted to pay to the employees of a member firm compensation for transactions which could have been handled by the employer, they would be paying something of value for the purpose of rewarding an employee's acts in diverting business from his employer or failing to bring business to his employer. The duty of a salesman is to promote the business of his employer by selling the employer's securities or services and when another member makes it profitable for the employee to place his business elsewhere than with his employer, such member is violating Section 10."

In respect to the partner of another member to whom commissions were paid, the Committee said: ". . . it is the opinion of this Committee that the respondent had a right to rely upon the fact that "Blank," as a partner, would perform such obligations as his partnership agreement called upon him to perform. Therefore, the payments to him were not a violation of any of the Rules of Fair Practice. However, the payments of such commissions should have been made to the partnership and not to an individual partner and this instance is just another illustration of irresponsibility and carelessness on the part of [the members] in the matter of payment of commissions."

Business Conduct

Number of complaints drops from 20 filed in 1944 to 16 in 1945; only four cases pending at year end

The downward trend in the yearly total of complaints filed by Business Conduct Committees of the Association, which has been uninterrupted since 1941, continued last year, when 16 complaints were filed, as compared with 20 in 1944, 50 in 1943, 57 in 1942 and 120 in 1941. Eight complaints were pending at the beginning of 1945 against four at the end, 20 having been closed during the year.

In six districts no formal complaint was filed. Hearings were held on 12 complaints, there were three appeals for review and four reviews were instituted by the National Business Conduct Committee.

One member was expelled, seven fined, nine censured and costs were assessed in six cases. Four complaints were withdrawn or dismissed and there was one pledge of compliance. In the preceding year, there was one expulsion, ten fines and 13 censures, while 16 complaints were withdrawn or dismissed and there were four pledges of compliance.

Nine of the sixteen complaints filed in 1945 resulted from facts established by questionnaire or examination. Two complaints were filed as a result of examination.

The accompanying table sets forth last year's record of formal complaints and decisions by Districts:

QUOTATIONS

The contribution that NASD is making to the over-the-counter industry was cited by Clarence E. Unterberg of C. E. Unterberg & Co., New York, Chairman of the National Quotations Committee, in that committee's report for the year 1945.

Although the quotations problem is not yet fully settled, progress has been made in the past year, Mr. Unterberg reported. In some Districts, of course, the number of issues traded is much smaller than in others and accordingly in such Districts the problem of supplying accurate retail quotations as of a definite time, on a given day, is less complex.

The National Quotations Committee emphasized in its final report, as it did at mid-year, that the cooperation of dealers is essential at all times. It also urged that members seek the cooperation of financial writers, and emphasize to them the definite service to the public which is to be found in closely-supervised newspaper quotations.

BRITISH INVESTMENT CONTROLS

A bill introduced in the British House of Commons late in January continues the investment controls already existing under the Emergency Powers Act. The measure gives statutory force to the war-time regulations and thus, if enacted, will make certain that the temporary controls created for the duration of the war are to be clamped permanently on capital issues.

A National Advisory Council will guide the Capital Issues Control Committee on questions of broad policy in dealing with individual applicants for new capital issues. Under present regulations, all capital issues over $200,000 must be approved by the Committee. London dispatches indicate that the reaction of the financial community was one of relief that the new Labor Government did not sponsor legislation of a more drastic character.

SALE OF CANADIAN BONDS

The Foreign Exchange Control Board of Canada recently announced a new ruling which cancels the right of a non-resident of the Dominion to withdraw from Canada the proceeds of an outright sale of bonds or debentures which were registered with the Control Board at the time of purchase. The ruling, which became effective as of January 19, does not apply to stocks. A holder of Canadian bonds who resides in the United States may sell his holdings and transfer into other Canadian securities, and, of course, can dispose of them in the open market in this country.

NUMBER AND DISPOSITION OF FORMAL COMPLAINTS BY DISTRICTS—1945

Dist. No.	Complaints Pending Jan. 1, 1945	Complaints Filed in 1945	Complaints Closed in 1945	Fines	Expulsions	Suspensions	Censures	Pledges of Compliance	Complaints Withdrawn or Dismissed	Complaints Pending 12-31-45
1	—	—	—	—	—	—	—	—	—	—
2	1	1	2	1	—	—	1	—	1	—
3	1	—	1	—	—	—	—	—	1	—
4	—	—	—	—	—	—	—	—	—	—
5	—	—	—	—	—	—	—	—	—	—
6	—	1	1	1	—	—	—	1	—	—
7	—	—	—	—	—	—	—	—	—	—
8	1	3	3	—	—	—	3	—	—	1
9	—	2	1	—	—	—	1	—	—	1
10	1	2	2	2	—	—	—	—	—	1
11	—	1	1	—	—	—	1	—	—	—
12	2	2	4	3	—	—	1	—	—	—
13	2	4	5	—	1	—	2	—	2	1
14	—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—
Total	8	16	20	7	1	—	9	1	4	4

A 16-Year Record in Offerings

Recent SEC bulletin points out October financing reached new peak; 82% used for debt and preferred stock retirement

Offerings of corporate securities for October were the largest for any month in sixteen years, the Securities and Exchange Commission reported in a bulletin made public on January 28. The total, $1,077,000,000, exceeded by $133,000,000 the offerings placed on the market last July, the previous record month since 1929.

October's record was attributed by the SEC to a desire to get refunding programs under way before the start of the Victory Loan drive, the prospect that excess profits taxes on 1946 incomes would be repealed and the favorable market conditions prevailing.

Corporate issues during the month included $781,000,000 registered under the Securities Act of 1933. Unregistered corporate issues consisted of $234,000,000 subject to jurisdiction of the Interstate Commerce Commission; $56,000,000 were sold privately to a limited number of investors, while the rest of the monthly total consisted of bank issues, issues sold intrastate and smaller issues which come under Regulation A exemption.

Public utilities offered $572,000,000 of the October issues, or more than half of the corporate flotations, while railroad and industrial companies accounted for $249,000,000 and $228,000,000 respectively. Of the net proceeds received by corporations, more than 82 per cent was to be used for retirement of outstanding debt and preferred stock issues and repayment of bank loans.

Offerings of equity issues amounted to $172,000,000, exclusive of parts of issues exchanged for outstanding securities. Non-corporate issues included $961,000,000 of Government savings bonds and notes, $676,000,000 of State and municipal issues and a $25,000,000 issue of a Canadian province.

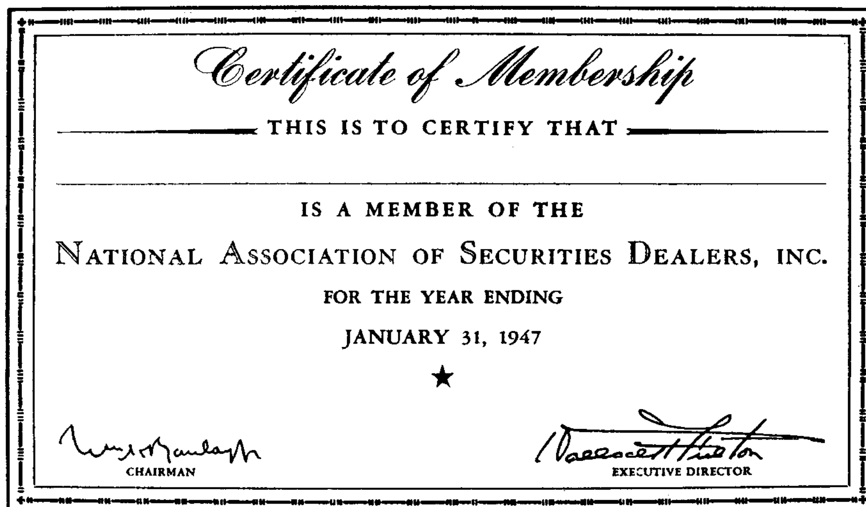
"MEMBERSHIP LINE" AUTHORIZED

The Board of Governors has authorized the use by members of the name of the Association on their stationery and advertising matter. Section 2 or Article VIII of the By-Laws provides that:

> "No member shall use the name of the corporation on letterheads, circulars or other advertising matter or literature, except to the extent that may be authorized by the Board of Governors."

A resolution adopted by the Board authorized the use by members of the phrase "Member, National Association of Securities Dealers, Inc." on letterheads, circulars, confirmations and other advertising matter or literature and upon the entrances to members' places of business, provided that the name of the Association be used in no other way than in that phrase.

The Board also resolved that each member shall be entitled to receive, upon request, a certificate of membership. The new certificate for 1946 is reproduced in this issue of the News.



Certificate of Membership

THIS IS TO CERTIFY THAT

IS A MEMBER OF THE

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

FOR THE YEAR ENDING

JANUARY 31, 1947

★

CHAIRMAN

EXECUTIVE DIRECTOR

QUESTIONNAIRE STATISTICS

A study of more than 25,000 principal transactions reported on questionnaires in 1945 showed that 87 per cent were made at mark-ups of 5 per cent or less and that 59 per cent were at mark-ups of 3 per cent or less. In 1944, 81.5 per cent of such transactions were made at 5 per cent or less and 51 per cent at 3 per cent or less. In 1943, transactions with mark-ups of 5 per cent or less accounted for 71 per cent of those reported on questionnaires while for that year 47 per cent of these principal transactions were at 3 per cent or less.

New National Committees

(Continued from Page 8)

ton; Robert W. Baird, The Wisconsin Company, Milwaukee; Peter Ball, Ball, Burge & Kraus, Cleveland; James Coggeshall, Jr., The First Boston Corporation, New York; H. H. Dewar, Dewar, Robertson & Pancoast, San Antonio; R. Winfield Ellis, Lee Higginson Corporation, Chicago; R. C. Kirchofer, Kirchofer & Arnold, Raleigh.

Railroad Advisory Committee (National Uniform Practice Committee)—Pierpont V. Davis, Chairman, Harriman, Ripley & Co., Incorporated, New York; Charles L. Bergmann, R. W. Pressrich & Co., New York; George W. Bovenizer, Kuhn, Loeb & Co., New York; Fairman R. Dick, Dick & Merle-Smith, New York; Rowland H. George, Wood, Struthers & Co., New York; J. F. B. Mitchell, Wood, Walker & Co., New York; Robert G. Rowe, Stroud & Company, Incorporated, Philadelphia; Jean C. Witter, Dean Witter & Co., San Francisco; Orrin G. Wood, Estabrook & Co., Boston.

Committee of Traders—R. Victor Mosley, Chairman, Stroud & Company, Incorporated, Philadelphia; C. E. DeWillers, C. E. DeWillers & Co., New York; James R. Duffy, Paine, Webber, Jackson & Curtis, Boston; Clair S. Hall, Clair S. Hall & Company, Cincinnati; John C. Hecht, Butler-Huff & Company of California, Los Angeles; Josef C. Phillips, Pacific Northwest Company, Seattle; Robert A. Podesta, Julien Collins & Company, Chicago.