

March 2003

Published by RR Donnelley

Editorial Content by Glasser LegalWorks

Blake Bell, Editor in Chief

In This Issue:

Media Release on RR Donnelley Financial RealCorporateLawyer and Client Education Plans
SEC I: Commission Staff Issues Summary of Findings From Review of Company Filings
SEC II: SEC Releases Text of Final Rule Regarding Analyst Certification
SEC III: Custody of Investment Company Assets With a Securities Depository
SEC IV: SEC Proposes Rule Regarding Compliance Programs of Investment Companies and Investment Advisers
Key '40 Act Report by Richard D. Marshall of Kirkpatrick & Lockhart LLP
SRO Rule Changes
Fee Rate Advisory
2003 SEC Handbook: RR Donnelley Releases Addendum
Comings and Goings: Who's Doing What and Where
Upcoming Events

Upcoming Program:

Securities and Exchange Commission Corporation Finance Division "Hot" Button Issues

[Visit our Online Programs Page to find out more.](#)

On Tuesday, March 18, 2003 (12:00 pm - 2:00 pm EST), the complimentary teleconference panel includes:

Moderator: Brian J. Lane, Partner, Gibson, Dunn & Crutcher, LLP
Marty Dunn, Deputy Director, Securities & Exchange Commission
David B. H. Martin, Partner, Covington & Burling
Linda L. Griggs, Partner, Morgan, Lewis & Bockius LLP

To register for this program, get the registration form at
<http://www.realcorporatelawyer.com/CLE/CLERregister.html>.

RR Donnelley Financial Boosts Client Education Services with Enhanced Legal Reference Site and New Programs

Multi-Year Partnership with Glasser LegalWorks to Bring Expanded Content at RealCorporateLawyer.com and New Conferences on Corporate and Securities Regulation

NEW YORK, March 10, 2003 - RR Donnelley Financial, the worldwide provider of financial printing and communications solutions, plans to increase its client education services with expanded and enhanced content on its RealCorporateLawyer.com and new seminars on pertinent issues in capital markets, corporate governance and securities regulation. The expansion is part of a multi-year content agreement with Glasser LegalWorks.

"As the regulatory landscape becomes ever more complex, RR Donnelley Financial is more committed than ever to delivering value-added educational resources to our clients," said Terry Trayvick, president of RR Donnelley Financial's Capital Markets business. "By offering convenient access to the most up-to-date information, authoritative insights and expert discussions on current issues, we can make working in a continuously changing regulatory environment easier for our clients."

Under the agreement, Glasser LegalWorks of Little Falls, New Jersey will help develop and manage all content delivered through RealCorporateLawyer.com as well as produce RR Donnelley Financial's bi-monthly teleconference series and conduct an annual series of SEC topical conferences in major cities.

"With Glasser LegalWorks' vast array of expert resources throughout the securities and corporate communities and a reputation for the highest-quality educational programs, this partnership allows us to bring additional insight to our clients as they add value to their transactions, disclosure documents and compliance filings," said Trayvick.

Lynn S. Glasser, president of Glasser LegalWorks said, "RR Donnelley Financial is making the largest commitment of anyone in the industry to bring its clients information they need to make informed decisions on a current basis. We will be working closely with RR Donnelley and our roster of authorities to build this intellectual capital into a one-stop reference center."

Under the partnership, RR Donnelley Financial's client education services will feature:

A series of complimentary conferences on SEC "Hot" Topics presented in major cities throughout the United States as well as selected locations in Europe. Each program will cover topics of immediate importance to corporate counsel, chief financial officers and securities lawyers. Glasser LegalWorks, well-known for its SEC seminars, will design the curriculum in conjunction with a top faculty drawn from the leading ranks of securities lawyers, key industry players and the SEC. Continuing education credit will be offered in all jurisdictions. The first programs will be in May-June 2003 followed by a second series in Fall 2003.

The RealCorporateLawyer.com teleconference series, which will be expanded from one to two hours in duration and add an open discussion period, offers discussion and updates on timely SEC and capital markets subjects. CLE credits will be available where offered by the state. Glasser LegalWorks will produce these broadcasts, which feature leading lawyers, well-versed in the fine points of SEC regulations and securities law. The first program will be held in mid-March on a corporate finance topic.

RealCorporateLawyer.com, which currently receives one million hits a month, will be expanded, including the addition of content from Glasser LegalWorks' CyberSecuritiesLaw.com. The site's visitors - including securities lawyers, corporate counsel, corporate secretaries, and CFOs -- will also benefit from new features, more research tools, an easier-to-navigate format and more than 6,000 links to other securities and corporate sites. This coverage will keep users current on the activities of the regulatory bodies and self-regulatory organizations while offering even more expert discussions on current issues.

The RealCorporateLawyer E.zine, distributed monthly to more than 7000 subscribers, will be enhanced with content by its new editor-in-chief Blake Bell, Simpson, Thatcher & Bartlett.

"I will be adding content and resources to RealCorporateLawyer.com to enhance its already outstanding reputation," said Bell. "With the addition of new coverage from CyberSecuritiesLaw.com, which I have edited for the last four years, I expect our audience to expand considerably," said Bell.

RR Donnelley Financial's client education services also include a reference publication series on transactional and corporate governance topics, and locally produced education programs in its market centers in the United States, Europe and Asia.

About RR Donnelley Financial RR Donnelley's capital markets business is integral to the capital raising and regulatory processes worldwide. We help corporations, securities law firms and investment banks create, manage, produce and deliver transaction and compliance documents. We add value through highly personalized and around-the-clock service, single-source deal solutions, deal management, worldwide regulatory expertise, a global reach, client education and insight that comes from a history of experience and achievement. We partner with our clients to make it easier for them to get the deal done - so they can focus on where they add value. We provide our clients a world-class experience, augmented by our flexibility, a willingness to listen and anticipation of their changing needs.

For more information, visit www.rrdfin.com or www.RealCorporateLawyer.com, a reference resource site for corporate and securities lawyers. RR Donnelley Financial is a business of RR Donnelley (DNY).

About Glasser LegalWorks Glasser LegalWorks of Little Falls, N.J. was founded in 1995 by Lynn and Stephen Glasser and is a leading provider of CLE in the securities, corporate and legal management areas. The company is also a print and electronic publisher of journals, books and websites including cybersecuritieslaw.com. Glasser

LegalWorks also develops private brand seminars for leading companies and law firms. For more information, visit www.glasserlegalworks.com

SEC I: Form 10-K Disclosure Issues

Commission Staff Issues Summary of Findings from Review of Company Filings - Feb. 27, 2003

*Summary by the Division of Corporation Finance of Significant Issues Addressed
in the Review of the Periodic Reports of the Fortune 500 Companies*

<http://www.sec.gov/divisions/corpfina/fortune500rep.htm>

In December 2001, the SEC staff announced an initiative to review annual reports on Form 10-K filed by all Fortune 500 companies in 2002. On February 27, the SEC's Division of Corporation Finance issued a summary of its findings based on the initiative. Although the summary is brief, it provides some guidance regarding issues that reporting companies should pay particular attention to as they prepare their annual reports.

The principal disclosure categories that reportedly were the subject of frequent comments by SEC staff who conducted the review included the following:

- Non-GAAP financial information;
- Revenue recognition issues;
- Critical accounting policy disclosure;
- Management's discussion and analysis of financial condition and results of operations generally;
- Restructuring charges (both in financial statements and management's discussion and analysis);
- Impairment charges;
- Pension plans;
- Segment reporting;
- Securitized financial assets and off-balance sheet arrangements; and
- Environmental hazard and product liability disclosures.

If nothing else, the fact that Corporation Finance has chosen to flag these issues in the summary of its findings from review initiative strongly suggests that reporting companies would be well advised to focus carefully on each of the

issues reflected in the summary. It would seem likely that the staff will now increase its scrutiny of such issues on a going forward basis.

SEC II: Research Analysts

SEC Releases Text of Final Rule Regarding Analyst Certification - Regulation AC Issued Pursuant to Sections 501 of Sarbanes-Oxley - Feb. 20, 2003

Release Nos.: 33-8193; 34-47384

File No.: S7-30-02

Effective Date: April 14, 2003

Compliance Date: See text of release.

<http://www.sec.gov/rules/final/33-8193.htm>

The SEC has adopted new Regulation Analyst Certification requiring that brokers, dealers and certain associated persons include in research reports certifications by the research analyst "that the views expressed in the report accurately reflect his or her personal views, and disclose whether or not the analyst received compensation or other payments in connection with his or her specific recommendations or views." In addition, broker-dealers will now be required to obtain periodic certifications by research analysts in connection with the analyst's public appearances.

Certifications in Connection with Research Reports

As adopted, Regulation AC requires that brokers, dealers and their associated persons that are "covered persons" (defined in Rule 500 of Regulation AC) that publish, circulate or provide research reports must include in those research reports provide the following certifications in a "clear and prominent" fashion:

A statement by the analyst(s) certifying that the views expressed in the research report accurately reflect such research analyst's personal views about the subject

securities and issuers; and

A statement by the analyst(s) certifying either: (1) that no part of his or her compensation was, is, or will be directly or indirectly related to the specific recommendations or views contained in the research report; or (2) that part or all of his or her compensation was, is, or will be directly or indirectly related to the specific recommendations or views contained in the research report. If the analyst's compensation was, is, or will be directly related to the specific recommendations or views contained in the research report, the statement must include the source, amount, and purpose of such compensation, and further disclose that it may influence the recommendation in the research report.

In footnote 11 of its release, the Commission stated that it "expects that the certifications will be included on the front page of the research report, or that the front page will specify the page or pages on which each certification is found." Electronic versions of such research reports may rely on hyperlinks to the certifications "provided that the first screen that the investor sees clearly and prominently labels the hyperlinks to the required disclosures".

If the analyst(s) cannot provide the necessary certification that the report reflects personally-held views, then it is a violation of the Rule to distribute the report.

Likewise, if the report does not contain one of the two alternative compensation certifications, then it is a violation of the Rule to distribute the report.

Moreover, if an analyst's rating "contradicts" the analysis contained in the report, the Commission says that it would not only be a possible violation of the anti-fraud provisions of the federal securities laws, but also could "render false the analyst's certification, because the analyst's certification reflects both the analysis as well as the rating."

Certifications in Connection with Public Appearances

Under Regulation AC, broker-dealers will now have to make and keep records related to public appearances by research analysts. According to the rule as adopted, if a broker-dealer publishes, circulates, or provides a research report prepared by a research analyst employed by the broker-dealer or a covered person, the broker-dealer is required within thirty days after each calendar quarter to make a record of each public appearance by the analyst and include in that record:

A statement by the analyst attesting that the views he or she expressed in all public appearances during the calendar quarter accurately reflected the research analyst's personal views at that time about any and all of the subject securities or issuers; and

A statement by the research analyst certifying that no part of his or her compensation was, is, or will be directly or indirectly related to any specific recommendations or views expressed in any such public appearance.

SEC III: Custody of Investment Company Assets with a Securities Depository
SEC Releases Text of Final Rule Regarding Custody of Investment Company
Assets with a Securities Depository - Feb. 13, 2003

Release No.: IC-25934

File No.: S7-22-01

Effective Date: March 28, 2003

Compliance Date: See text of release.

<http://www.sec.gov/rules/final/ic-25934.htm>

The Commission has adopted amendments to rule 17f-4 issued under the Investment Company Act (the rule that governs Investment Companies' use of securities depositories). Rule 17f-4 authorizes funds to place and maintain "financial assets" corresponding to the fund's "securities entitlements" with a securities depository subject to certain conditions. The SEC says that the amendments are intended to "expand the types of investment companies that may maintain assets with a depository, and update the conditions they must follow to use a depository." The amendments were necessary, simply put, because industry practices regarding securities custody have changed substantially since rule 17f-4 was enacted in 1978 as more investors (including funds) have come to hold their securities with depositories either directly or through an intermediary. In the final version of the rule, in response to commentary received by the Commission, the SEC employed terms used by Uniform Commercial Code, Revised Article 8 -- Investment Securities (With

Conforming and Miscellaneous Amendments to Articles 1, 4, 5, 9 and 10) (1994 Official Text with Comments) to "improve the interaction of the rule with Revised Article 8".

U.S. Depositories

Rule 17f-4 allows funds to keep and maintain securities and other assets in a securities depository subject to regulation in the U.S. The Commission has now simplified the definition of "securities depository" to describe what such an entity is rather than what it does. In so amending the rule, the Commission has now created a rule that no longer restricts the functions that a depository may perform. According to the SEC, "[a]s a result, a fund may use a depository that holds securities that are acquired or disposed of by bookkeeping entry as well as those that are conveyed by physical deliver."

Reliance on the Rule by Non-Management Companies and Approval of Custody Arrangements

The amendments will now allow any registered investment company including unit investment trusts or face-amount certificate companies to use a securities depository. The SEC also has eliminated any requirement that fund directors approve arrangements with depositories essentially because in the last three decades such arrangements have become largely routine matters.

Compliance Requirements for the Custodian or Securities Depository

The amendments to Rule 17f-4 eliminate the previous "safeguarding requirements" and substitute instead two more general obligations:

Funds' custodians now must be obligated to "exercise due care in accordance with reasonable commercial standards in discharging" duties as securities intermediaries to obtain and maintain financial assets. If the fund deals directly with a depository, the depository's contract or rules for participants must provide that the depository will meet similar obligations.

Custodians must provide, promptly upon a fund's request, such reports as are available about the internal accounting controls and financial strength of the depository. If the fund deals directly with a depository, then the amendments require that the depository's contract or written rules for its participants must provide that the depository will provide similar financial reports.

Treatment of U.S. and Foreign Depositories

In its release setting forth the Final Rule, the Commission states that it has decided not to revise the rule to require the application of its foreign custody rules (Rules 17f-5 and 17f-7) when a fund holds securities through a U.S. depository that has a linkage to a foreign custodian or depository. The Commission concluded, based on comments that it received on its proposal to amend Rule 17f-4, that the application of the foreign custody rules would impose regulatory burdens without appreciably enhancing the protection of fund assets.

SEC IV: SEC Proposes Rule Regarding Compliance Programs of Investment Companies and Investment Advisers

SEC Releases Text of Proposed Rule that Would Require Investment Companies and Investment Advisers to Adopt, Implement and Conduct Annual Reviews of Compliance Programs and to Appoint a Chief Compliance Officer - Feb. 5, 2003

Release Nos.: IC-25925; IA-2107

File No.: S7-03-03

Comments Due: April 18, 2003

<http://www.sec.gov/rules/proposed/ic-25925.htm>

On February 5, 2003, the Commission published for comment new rules under the Investment Company Act of 1940 and the Investment Advisers Act of 1940 that would require each investment company and investment adviser registered with the Commission to adopt and implement policies and procedures reasonably designed to prevent violation of the federal securities laws, review those policies and procedures annually for their adequacy and the effectiveness of their implementation, and appoint a chief compliance officer to be responsible for administering the policies and procedures. In its release containing the proposed new rules, the Commission sought comment "on other ways to involve the private sector in fostering compliance by investment companies and investment

advisers with the federal securities laws."

According to its release, the Commission expects that, to the extent relevant, the new policies and procedures that would be required for each investment company and investment adviser would address, at a minimum, the following to the extent relevant:

Investment Advisers

Portfolio management processes (e.g., allocation of investment opportunities among clients; consistency of portfolios with clients' guidelines, etc.)

Trading practices (e.g., best execution procedures, so-called "soft dollar" arrangements, allocation of aggregate trades among clients)

Proprietary trading of adviser and personal trading of supervised persons

Accuracy of disclosures to investors (including advertisements)

Protections against conversion or inappropriate use of client assets

Accurate creation of records and their proper maintenance

Valuation of client holdings and fee assessments based on those valuations

Safeguards to protect client records and information

Business continuity plans

Additional Areas to Be Covered by Funds

Pricing of portfolio securities and fund shares

Processing of fund shares

Identification of affiliated persons with whom fund cannot transact certain business and compliance with exemptive rules and orders that permit such transactions

Compliance with fund governance requirements

Prevention of money laundering

Key '40 Act Report by Richard D. Marshall of Kirkpatrick Lockhart LLP
Rick Marshall of Kirkpatrick Lockhart LLP summarizes the exceptionally busy season of rule-making as it relates to investment companies and investment advisers - March 6, 2003

The Securities and Exchange Commission concluded an exceptionally busy season of rule-making by adopting and proposing numerous rules relating to investment companies and investment advisers.

The recently adopted proxy voting rules are the most controversial rules adopted in recent years for money managers.¹ Most money managers invest client funds in equity or voting securities and are given discretion or power by their clients to vote the proxies associated with those securities. For public companies, there are typically annual meetings at which numerous matters are voted on by the shareholders. Although many of these matters are routine, some can be crucial to the governance of the company. Money managers, acting on behalf of their clients, cast many of the votes at these meetings through proxies.

The new rules apply to both investment advisers and investment companies. For advisers, the rules require the adoption and retention of procedures for proxy voting. These procedures must address possible conflicts of interest that may arise in the adviser's voting of proxies.² The adviser must disclose the substance of these procedures to its clients and tell clients how they can obtain the procedures. A adviser must also tell its clients how they can obtain a record of how the adviser voted the proxies associated with the client's securities. Finally, the adviser must keep records of the proxies it received, how it voted them, and any documents the adviser reviewed to determine how to vote a proxy.

For investment companies, the rules are even more onerous. In addition to all of the requirements that apply to advisers – adoption of procedures, disclosure of those procedures, and retention of records of proxy votes – an investment company must now file an annual report listing how it voted each proxy.

The money management industry opposed these rules as being enormously expensive to comply with and as producing minimal benefits for their clients. Reportedly, the industry is continuing to lobby, even though the rules have already been adopted, to delay their implementation. The SEC rejected these concerns, relying on general fiduciary principles to justify the rules. The SEC's reasoning mirrors reasoning of the Labor Department over a decade ago when that agency emphasized that managers of pension money (regulated under

ERISA) must diligently strive to vote proxies for the pension plans they manage and the trustees of those plans must review the manager's efforts in this regard. The SEC's recent rules bring the standards under ERISA into closer harmony with the standards under the federal securities laws.

On February 13, 2003, the SEC also adopted amendments to the custody rule for investment companies relating to a custodian's use of a securities depository.³ Securities depositories, such as DTC, have become standard in the securities industry and have proven highly reliable. They hold records evidencing ownership of securities and facilitate the electronic transfer of securities ownership between financial intermediaries.

The amended rule permits unit investment trusts and face-amount certificate companies to use these depositories, eliminates a requirement that fund boards approve arrangements with depositories, and permits custodians of fund assets to use a depository, and the fund itself to deposit its securities with a depository, provided they satisfy themselves that the depository exercises due care in accordance with reasonable commercial standards. These amendments generally make it easier for a fund to use a depository.

Finally, and perhaps most importantly, the SEC has proposed sweeping changes for advisers and investment companies relating to their compliance efforts.⁴ The proposed rules, which will be open for comment until April 18, 2003, would require all advisers and investment companies to adopt formal compliance manuals, to conduct annual compliance reviews, and to appoint a chief compliance officer. Even more dramatic are proposals, not yet in rule-making form, to further enhance compliance procedures through any of four possible mechanisms: (1) annual compliance reviews by a third-party; (2) annual certification by outside auditors of the compliance controls at a firm; (3) the creation of a self-regulatory organization for the money management industry; or (4) a fidelity bonding requirement for all advisers.

Each of these proposals significantly increases the compliance responsibilities of money managers. Currently, money managers are not required to have written compliance procedures, except in limited circumstances to prevent insider trading, and more recently to regulate proxy voting and anti-money laundering efforts (for investment companies). Money managers also are not currently required to conduct compliance reviews. Finally, money managers are not required to designate compliance officers. Some money managers have no one formally assigned to perform the functions of a compliance officer.

If the proposed rule is adopted, these practices would change radically. Even more dramatic changes would follow if the concepts under consideration by the SEC, particularly the creation of a self-regulatory organization for money managers, is adopted. A self-regulatory organization is a private organization that imposes rules, conducts periodic inspections, and brings enforcement actions against its members, with the outcomes subject to enforcement by the SEC. The New York Stock Exchange and the National Association of Securities Dealers are examples of self-regulatory organizations for brokers. All brokers must belong to at least one of these organizations and thereby becomes subject to its rules, inspections, and enforcement process. In July, in the Sarbanes-Oxley Act, Congress created a self-regulatory organization for public accountants and placed this organization under the oversight of the SEC.

The money management industry has opposed the creation of a self-regulatory organization in the past and is expected to oppose the current proposal. The creation of such an organization would impose many additional rules on money managers and greatly increase the incidence of inspections and enforcement actions over them. Self-regulatory organizations are generally funded by their members through the imposition of membership dues and a self-regulatory organization for money managers could be expected to be quite expensive for the industry. If the pattern applied to brokers and accountants were followed, the self-regulatory organization would supplement, rather than replace, the SEC,

thereby creating a whole additional layer of regulation over the money management industry.

The creation of a self-regulatory organization would require Congressional action, which the industry have successfully opposed in the past. Even if the SEC were to move forward with this proposal, it would typically require many months for the proposal to move through Congress.

The SEC is also reportedly completing its study of the hedge fund industry. That study which began in the summer of 2002, could result in the SEC proposing new rules for hedge funds or new rules, or reinterpretations of old rules, that could require many hedge fund managers to register with the SEC as investment advisers. The NASD recently issued a Notice to Members cautioning members in selling hedge funds to retail investors.⁵

The SEC has also been studying break-point sales issues for mutual funds. In a recent Notice to Members,⁶ the NASD instructed its members to “**immediately**” review their practices for determining the correct sales loads to charge customers for mutual fund shares. The Notice was prompted by NASD and SEC inspections of brokers that detected errors in charging sales loads and noted that, because of new automated systems, such as Fund/SERV, the mutual fund companies themselves are often no longer able to detect and correct these errors.

Classes of fund shares that charge front-end loads, typically class A shares, frequently charge lower front-end loads when larger amounts of the fund shares are purchased. The amounts at which these lower charges are available are known as breakpoints. In addition to achieving a breakpoint or discount on the front-end load through a single purchase of fund shares, these breakpoints are often available when the cumulative amount of a series of transactions reaches the appropriate level (known as a right of accumulation) and when the customer agrees to purchase a certain amount of fund shares in the future (known as a

letter of intent).

According to the Notice, in order for a broker to determine whether a customer is entitled to a breakpoint, the broker must gather information about mutual fund purchases by the customer in related accounts (such as IRA and UGMA accounts), the amount of pending mutual fund transactions, and the amounts previously invested in the particular fund and related funds. The Notice also instructs brokers: (1) to adopt procedures to gather the necessary information to correctly calculate breakpoints; (2) to train registered representatives and back office personnel in appropriate procedures to charge correct sales loads; and (3) to adopt supervisory procedures to ensure appropriate breakpoint charges. The Notice requires brokers to document their reviews of their breakpoint sales practices. These documents will be reviewed by the NASD during future inspections.

The Notice also observes that the selling broker has the responsibility for determining the correct sales load, even if the distribution agreement with the mutual fund does not clearly assign this responsibility to the broker. The only exception noted by the Notice is the situation in which a clearing agreement assigns responsibility to the clearing firm, rather than the introducing firm, to correctly determine breakpoints.

1 Advisers Act Rel. 2106 (Feb. 4, 2003); Investment Company Act Rel. 25922 (Feb. 4, 2003).

2 The SEC cited, as examples of conflicts of interest, situations in which the adviser manages money for a corporation the securities of which are held in client accounts and situations in which personnel of the adviser are related to officers or directors of companies in which the adviser invests for its clients.

3 Investment Company Rel. 25934 (Feb. 13, 2003).

4 Advisers Act Rel. 2107 (Feb. 5, 2003).

5 Notice –03-07, February 2003.

6 Notice 02-85, December 2002.

SRO Rule Changes

The Pacific Exchange withdrew from the Commission a proposed rule change (SR-PCX-2003-05) under Rule 19b-4 to provide for fees for certain options intermarket linkage orders. (Rel. 34-47428).

The American Stock Exchange filed a proposed rule change (SR-Amex-2003-08) to increase the maximum order size eligible for automatic execution on Auto-Ex to 500 contracts. Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47429).

The Commission approved (SR-PCX-2002-09), the Pacific Exchange's proposal to allow the Options Floor Trading Committee to delegate to two floor officials the responsibility for making decisions with respect to certain Auto-Ex matters. Publication is expected in the Federal Register during the week of March 3. (Rel. 34-47430).

A proposed rule change (SR-NASD-2003-24) filed by the National Association of Securities Dealers to amend the NASD Registration Rules has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47433).

A proposed rule change filed by the National Association of Securities Dealers

to extend the pilot program regarding the Regulatory Fee and the Trading Activity Fee (SR-NASD-2003-26) has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47436).

A proposed rule change (SR-NASD-2003-21) filed by the National Association of Securities Dealers, through its subsidiary The Nasdaq Stock Market, Inc., to establish a pricing schedule for the use of Nasdaq Trading Applications' Tools Plus product by non-NASD members has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47437).

The Commission approved a proposed rule change, and Amendment No. 1 thereto, submitted by the Philadelphia Stock Exchange amending Options Floor Procedure Advice A-13 to include violations for failure to obtain approval to disengage the NBBO Feature in the exchange's Minor Rule Plan (SR-Phlx-2002-61). Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47417).

The Commission approved a proposed rule change (SR-AMEX-2002-36) filed by the American Stock Exchange amending Amex's Rule 731 and adopts Commentary .08 to Rule 731 to provide flexibility in establishing resolution times for uncompleted transactions in equities, including shares of exchange traded funds and shares of trust-issued receipts. Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47419).

A proposed rule change (SR-NQLX-2003-04) filed by Nasdaq Liffe Markets, LLC amending its reporting requirements for exchange for physical trades has become effective under Section 19(b)(7) of the Securities Exchange Act of

1934. Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47420).

The Philadelphia Stock Exchange filed a proposed rule change (SR-Phlx-2003-04) to establish its payment for order flow fees for the period from February through April 2003. The proposal has become effective upon filing under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of March 3. (Rel. 34-47424).

A proposed rule change (CR-CBOE-2003-04) filed by the Chicago Board Options Exchange to add two previously deleted Interpretations to Rule 5.4 has become effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of March 3, 2003. (Rel. 34-47406).

A proposed Rule change filed by the Philadelphia Stock Exchange terminating the Index Option Book Charge (SR-Phlx-2003-09) has become immediately effective under Section 19(b)(3)(A) of the Securities Exchange Act of 1934. Publication of the proposal is expected in the Federal Register during the week of March 3, 2003. (Rel. 34-47408).

A proposed rule change filed by the New York Stock Exchange (SR-NYSE-2003-04) extending the pilot regarding shareholder approval of stock option plans until June 30, 2003, or such earlier date as the NYSE's pending rule proposal requiring shareholder approval of equity-compensation plans (File No. SR-NYSE-2002-46) is approved by the Commission, has become effective under Section 19(b)(3)(A) of the Securities Act of 1934. Publication is expected in the Federal Register during the week of March 3, 2003. (Rel. 34-47409).

The Commission approved a proposed rule change submitted under Section

19(b)(1) and Rule 19b-4 of the Securities Exchange Act of 1934 by the Municipal Securities Rulemaking Board (SR-MSRB-2002-15) relating to Rule G-28, on transactions with employees and partners of other municipal securities professionals. The Commission's approval order is expected to be published in the Federal Register during the week of March 3, 2003. (Rel. 34-47395)

The Commission approved a proposed rule change (SR-DTC-2002-13) filed by The Depository Trust Company under Section 19 (b) (1) of the Exchange Act. The approval allows DTC to establish the Prospectus Repository System that will make prospectuses and official statements relating to new issues of corporate and municipal securities available electronically to DTC participants and DTC-authorized third parties. Publication of the proposal is expected in the Federal Register during the week of March 3, 2003. (Rel. 34-47410)

Fee Rate Advisory

The SEC has released Fee Rate Advisory #12 for Fiscal Year 2003. Effective April 1, 2003, the revised Section 31 transaction fee rate will be \$46.80 per million. Fee Rate Advisory #12 is available at <http://www.sec.gov/news/press/2003-27.htm> As described in Fee Rate Advisory #11 for Fiscal Year 2003, available at <http://www.sec.gov/news/press/2003-24.htm>, the Section 31 fee rate will decrease from the current rate to \$25.20 per million effective March 22, 2003, and remain at that level until April 1, 2003, when the mid-year adjustment becomes effective. The Section 31 assessment on security futures transactions will not be changed from the current rate of \$0.009 per round turn transaction, and will not be affected by either the March 22, 2003 or April 1, 2003 rate adjustment.

2003 SEC Handbook: RR Donnelley Releases Addendum In our continuing effort to provide RealCorporateLawyer.com subscribers with substantive information, RR Donnelley Financial will publish a special addendum to its 2003 SEC Handbook Volumes I and II.

Since the 2003 edition of SEC Handbook went to press, the SEC has been hard at work, principally to comply with various provisions of the Sarbanes-Oxley Act of 2002. The Addendum includes the current text of all or such portions of those Rules and Forms contained in the SEC Handbook as they have been newly supplemented or amended to the most recent practicable date, as well as three new Regulations that are not yet classified under either volume of the SEC Handbook.

We expect to have the pdf format of this Addendum within a few weeks. As a subscriber, we will send it to you as a special edition of RealCorporateLawyer's E.zine. At that time, we'll also let you know how you can order a complimentary hardcopy of the Addendum.

Comings and Goings: Who's Doing What and Where

President Bush appointed **William H. Donaldson** as the twenty-seventh Chairman of the United States Securities and Exchange Commission on February 18, 2003. Only a few days later Donaldson outlined his vision for the future mission of the SEC in a [speech he gave at PLI's "SEC Speaks" Conference](#), likening the Commission and its Staff to the U.S. Marines in that it must ready itself for efficient and effective deployment for responsibilities of the future. As he puts it "To use the military analogy, our troops must be deployed in a way that supports our modern mission."

Dennis Garris, Head of M&A office, Division of Corp Fin is leaving the SEC to become a partner at Alston & Bird.

Former SEC Accountant **Lynn Turner** is reportedly staying quite busy as a vocal critic of the accounting profession. According to an [article in The Business Journal](#), a Kansas City-based publication, "Turner has been in steady demand as a guest speaker and accounting guru since Enron Corp.'s financial scandal sent the industry reeling more than a year ago." In fact, according to the report, he has been in such demand that "Colorado State University, where Turner leads the Center for Quality Financial Reporting, assigned a media specialist to schedule his interviews".

Former 24-year SEC Veteran **George Diacont** who served in the office of the chief accountant and in the enforcement division reportedly has been named by the Public Company Accounting Oversight Board as director of its registration

and inspection office. [Click here for a report on the move by The Electronic Accountant.](#)

The SEC has announced that it is accepting nominations for a new head of the Public Company Accounting Oversight Board until March 14. The Board's temporary chairperson, after the departure of **William Webster**, is **Charles Niemeier** (until recently chief accountant of the SEC's enforcement division). Among the board's other members is former SEC general counsel **Daniel Goelzer**.

James M. McConnell, Executive Director of the Commission, will testify before the House Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises on Thursday, March 6 concerning H.R. 658, the proposed "Accountant, Compliance, and Enforcement Staffing Act of 2003." The hearing will begin at 10:00 a.m. in Room 2128 of the Rayburn House Office Building.

Commissioner **Paul S. Atkins** is scheduled to speak at a luncheon at the CATO institute on March 10, 2003. For more information, contact L. Jacobo Rodriguez (202) 842-0200.

On March 13, Enforcement Division director **Stephen M. Cutler** will speak to an audience of representatives from Georgetown University Law Center 's Continuing Legal Education, the American Corporate Counsel Association, and the American Society of Corporate Secretaries at the Georgetown University Law Center, Moot Courtroom. For more information, contact Margaret Wheat (202) 662-9892.

On March 25, 2003, Commissioner **Paul S. Atkins** will deliver the keynote speech at the International Financial Law Review's Fourth Annual Awards Dinner at the Dorchester Hotel in London. For more information, contact Rob Mannix 44-20-7779-8339. Commissioner Atkins also will moderate a panel on SEC issues on March 27 at the annual spring meeting of the Council of Institutional Investors at

the Mayflower Hotel in Washington, D.C.

Events

IA Seminars: SEC Reporting Requirements March 28th London In Association with RR Donnelley Financial This workshop will provide comprehensive coverage of both the preparation and analysis of Forms 20-F and 6-K. The focus will be on financial statement requirements, the Operating and Financial Review and Prospects section, and the US GAAP reconciliation For more information call or email Martin Simmons, RR Donnelley Financial +33 1 53 45 19 00 - martin.simmons@rrd.com

FT Knowledge Update: CORPORATE GOVERNANCE May 19th 2003, London Sponsored by RR Donnelley Financial This one-day update has been specifically designed to provide not only the latest expert news but also a critical evaluation of the implications for companies seeking to improve their governance.

FT Knowledge Update: CORPORATE REPORTING May 23rd 2003, New York; June 6th 2003, London Sponsored by RR Donnelley Financial This one-day update covers the key issues, trends and best practices in reporting on intangibles. Topics to be covered include: Reconciling Financials and Non-Financials, Communicating Corporate Governance, Proving Your Performance - What Investors Expect, Pitching the Equity Story in bad times and Sustainability Reporting.

Book your place before April 17th and receive a £100 discount.

For more details please contact FT Knowledge on +44 (0)20 7010 2508 or finlearn@ftknowledge.com and quote Real Corporate Lawyer to receive your discount.

FT Knowledge Financial Learning is part of the Financial Times Group and provides training and education solutions to meet the changing needs of business and finance worldwide.

"Defusing the A-Bomb: Addressing the Business and Legal Risks of Asbestos Liability in M&A Deals" Presented by Dechert LLP and co-hosted by Aon corporation and Houlian Lokey Howard & Zukin. Thursday, March 27, 2003, 8:30am to 12:30 pm in the Rainbow room at 30 Rockefeller Plaza, New York, NY. Contact Justin T. Scott,, Public Relations Manager, Dechert LLP, (215) 994-2934 or justin.scott@dechert.com

Fifth Annual SEC Disclosure, Accounting and Enforcement Conference May 15-16, 2003, San Francisco; May 28-29, 2003, New York City. Presented by Glasser Legalworks. For more information, call 1-800-308-1700 ext. 111.

American Society of Corporate Secretaries' "2003 Annual Conference," June 25-29, Salt Lake City - <http://www.ascs.org/natconf.shtml>

Input, Please

Please let us know what you like - and don't like - so we can tailor the site to be a

hands-on resource for you and your colleagues. In addition, if you would like to contribute content to our site, let us know. E-mail comments, suggestions and other input to RealCorporateLawyer@rrd.com.

To Subscribe

Subscribe to this news service for free by visiting <http://www.realcorporatelawyer.com> and filling out the online form or send an email to RealCorporateLawyer@rrd.com.

To unsubscribe, send an email to RealCorporateLawyer@rrd.com.

©2003 RR Donnelley Financial

This free E.zine is provided for informational purposes only and does not constitute legal advice. RR Donnelley & Sons Company is not engaged in rendering legal or other professional services. Publication on this E.zine is not intended to create, and the information contained hereon does not constitute, an attorney-client relationship. Do not act or rely upon the information and advice given in this publication without seeking the services of competent professional counsel.

RR Donnelley's capital markets business is integral to the capital raising and regulatory processes worldwide. We help corporations, securities law firms and investment banks create, manage, produce and deliver transaction and compliance documents. We add value through highly personalized and around-the-clock service, single-source deal solutions, deal management, worldwide regulatory expertise, a global reach, client education and insight that comes from a history of experience and achievement. We partner with our clients to make it easier for them to get the deal done? so they can focus on where they add value. We provide our clients a world-class experience, augmented by our flexibility, ability to listen and anticipate changing needs.

For more information, visit us at www.rrdfin.com or www.RealCorporateLawyer.com, a reference resource site for corporate and securities lawyers.