

# SEC NEWS DIGEST

Issue 2002-18

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## COMMISSION ANNOUNCEMENTS

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Annette L. Nazareth, Director of the Commission's Division of Market Regulation, will testify before the Senate Committee on Banking, Housing, and Urban Affairs on Tuesday, January 29, in connection with the Committee's hearing on the "Financial War on Terrorism and the Administration's Implementation of the USA Patriot Act Money Laundering Legislation." The hearing will begin at 10:00 a.m. and will be held in Room 538 of the Dirksen Senate Office Building.

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## ENFORCEMENT PROCEEDINGS

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### SEC FILES CONTEMPT ACTION AGAINST DEFENDANT SUBJECT TO PRELIMINARY INJUNCTION

On January 17, the Commission filed with the United States District Court for the Southern District of Florida an Application for an Order to Show Cause why Defendant Anthony Caliendo (Caliendo) should not be held in contempt for failure to comply with the Court's orders. The application alleged that Caliendo failed to provide a sworn accounting in accordance with Court Orders entered on December 6, 2001 and December 12, 2001.

In its complaint filed on December 5, 2001, the SEC alleged that Defendants World Class Limousines, Inc., 1-800-GET-LIMO, Inc. and Caliendo (collectively referred to as Defendants) were violating the anti-fraud and registration provisions of the federal securities laws. The SEC alleged that Defendants perpetrated a fraudulent scheme that duped at least 89 unsuspecting investors worldwide out of approximately \$1.9 million.

On December 6, 2001, the Court entered an Order granting a Temporary Restraining Order and Other Emergency Relief. On December 12, 2001, pursuant to the consent of Caliendo, the Court entered a Preliminary Injunction and Other Relief as to Caliendo. The Court's December 12, 2001 Order required Caliendo to provide the Court and the SEC with a sworn accounting within five business days [SEC v. World Class Limousines, Inc., et al., Case No. 01-7834-CIV-JORDAN, USDC, SD FL, filed December 5, 2001] (LR-17341).

## RECEIVER APPOINTED IN MERRILL SCOTT & ASSOCIATES LITIGATION

The Commission has obtained, by stipulation, the appointment of a receiver for Merrill Scott & Associates, Ltd (MSA), Merrill Scott & Associates, Inc. (MSAI); Phoenix Overseas Advisers, Ltd (Phoenix); and Gibraltar Permanente Assurance, Ltd. (Gibraltar) The Court-appointed receiver is David K Broadbent, of the law firm of Holland and Hart, LLP Mr. Broadbent, a member of the Utah bar, was appointed by the Court on January 24

The Court also entered a Preliminary Injunction as to David E. Ross II by consent and extended the Temporary Restraining Order, Asset Freeze and Prohibition Against Destruction of Documents, by stipulation, as to Merrill Scott & Associates, Ltd , Merrill Scott & Associates, Inc , Phoenix Overseas Advisers, Ltd., Gibraltar Permanente Assurance, Ltd., and Patrick M Brody on January 24, 2002. This continues the freeze of the assets of the four entities and Brody that was previously entered on January 15, 2002

The complaint alleges MSA, a Bahamian entity, and many of its affiliates, including Phoenix, Gibraltar, and their domestic affiliate, MSAI (collectively, Merrill Scott), were engaged in an ongoing scheme in which they obtained investments of cash and marketable securities from U S citizens primarily seeking tax advantages through offshore investments It is alleged that since at least 1999 Merrill Scott has been operating at a loss due to misappropriations of an estimated \$9.5 million by Brody, the control person of the Merrill Scott organization, to finance his personal expenses, Merrill Scott's operating expenses, and Merrill Scott's attempts to realize huge returns on its investments by investing heavily in start-up companies It is further alleged that in order to keep the Merrill Scott organization afloat and keep clients satisfied, Brody operated the organization as a giant Ponzi scheme, using newly invested money to pay returns to earlier investors

The complaint charged the defendants with violating the antifraud provisions of the federal securities laws, specifically Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and Sections 206(1) and 206(2) of the Investment Advisers Act The complaint also alleged that Merrill Scott & Associates, Ltd , Merrill Scott & Associates, Inc , Phoenix Overseas Advisers, Ltd , Gibraltar Permanente Assurance, Ltd , and Patrick M Brody were operating an unregistered broker-dealer The Commission filed its action on January 15, 2002 [SEC v Merrill Scott & Associates Ltd Merrill Scott & Associates, Inc ; Phoenix Overseas Advisers Ltd , Gibraltar Permanente Assurance, Ltd ; Patrick M Brody, David E Ross II, and Michael Licopantis, Civil Action No. 2:02-CV-0039C, USDC D Ut ] (LR-17342)

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## INVESTMENT COMPANY ACT RELEASES

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### NOTICES OF DEREGISTRATIONS UNDER THE INVESTMENT COMPANY ACT

For the month of January, 2002, a notice has been issued giving interested persons until February 19, 2002, to request a hearing on any of the following applications for an order under Section 8(f) of the Investment Company Act declaring that the applicant has ceased to be an investment company:

PaineWebber Mutual Fund Trust [File No 811-4312]  
PaineWebber Municipal Series [File No 811-5014]  
MaxFund Trust [File No. 811-8499]  
Fifth Third/Maxus Income Fund [File No 811-4144]  
Fifth Third/Maxus Equity Fund [File No 811-5865]  
Fifth Third/Maxus Laureate Fund [File No 811-7516]  
Arrow Funds [File No 811-7041]  
COUNTRY Growth Fund, Inc [File No 811-1338]  
COUNTRY Tax Exempt Bond Fund, Inc [File No 811-2840]  
COUNTRY Taxable Fixed Income Series Fund, Inc [File No 811-3186]  
PaineWebber America Fund [File No 811-3502]  
PaineWebber Olympus Fund [File No 811-4180]  
PaineWebber Managed Assets Trust [File No. 811-6376]  
PaineWebber Securities Trust [File No 811-7473]  
PaineWebber Investment Trust II [File No. 811-7104]  
Nationwide Asset Allocation Trust [File No 811-7805]  
Bonfiglio & Reed Options Fund [File No 811-9905]  
Credit Suisse Asset Management Strategic Global Income Fund, Inc [File No 811-54581]

(Rel. IC-25401 - January 25)

### MEMORIAL FUNDS AND MEMORIAL INVESTMENT ADVISORS, INC.

A notice has been issued giving interested persons until February 19, 2002 to request a hearing on an application filed by Memorial Funds and Memorial Investment Advisors, Inc for an order granting an exemption from Section 15(a) of the Investment Company Act and Rule 18f-2 under the Act. The order would permit applicants to enter into and materially amend subadvisory agreements without shareholder approval and grant relief from certain disclosure requirements. (Rel. IC-25402 - January 25)

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## SELF-REGULATORY ORGANIZATIONS

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### IMMEDIATE EFFECTIVENESS OF PROPOSED RULE CHANGE

A proposed rule change filed with the Commission by the American Stock Exchange to amend its rules with respect to off-exchange trading in listed options contracts (SR-Amex-2001-111) 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 January 28 (Rel. 34-45334)

### PROPOSED RULE CHANGES

The New York Stock Exchange filed a proposed rule change (SR-NYSE-99-51) under Rule 19b-4 of the Securities Exchange Act of 1934 consisting of amendments to NYSE Rule 123, Interpretation .30 to NYSE Rule .32, and the proposed adoption of NYSE Rules 132A, B and C, relating to order tracking. Publication of the order is expected in the Federal Register during the week of January 28 (Rel. 34-45326)

A proposed rule change has been filed by the American Stock Exchange (SRAMEX-2001-56) under Section 19(b)(1) of the Securities Exchange Act of 1934 relating to the recording of images, sound or data on the Trading Floor of the Exchange. Publication of the proposal is expected in the Federal Register during the week of January 28 (Rel. 34-45333)

### APPROVING PROPOSED RULE CHANGE

The Commission has approved a proposed rule change (SR-GSCC-2001-03) filed by the Government Securities Clearing Corporation under Section 19(b) of the Exchange Act. The order allows GSCC to establish a cross-margining program with the Board of Trade Clearing Corporation. Publication of the proposal is expected in the Federal Register during the week of January 28 (Rel. 34-45335)

### WITHDRAWAL

Notice has been issued giving interested persons until February 19, 2002 to comment on the application by Global Technovations, Inc. for withdrawal from listing and registration of its Common Stock, par value \$.001 per share on the American Stock Exchange (Rel. 34-45339)

## **DELISTING**

An order has been issued granting the application of the American Stock Exchange to strike from listing and registration the Common Stock, \$1 00 par value, of Horizon Pharmacies, Inc., effective at the opening of business on January 28, 2002 (Rel 34-45340)