

sec news digest

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September 14, 1973

RULE PROPOSALS AND ADOPTIONS

AMENDMENT PROPOSED TO FORM X-17A-5 - ANNUAL REPORT OF MEMBERS, BROKERS AND DEALERS.

The Commission today announced a proposal to amend Form X-17A-5 to reflect developments in the securities industry since 1967 which have affected the auditing and regulation of brokers and dealers.

The amendments would require separate reporting of items given specific consideration in the computation of the reserve requirements prescribed by Rule 15c3-3 and would include a requirement to report fully paid and excess margin securities in the possession or control of the broker-dealer.

The proposed rule change would also change various reporting requirements under Question 6A of the Financial Questionnaire respecting customer's securities accounts and would permit cash accounts which are current within the meaning of Regulation T to be reported as accounts which are governed by Section 4(c) of Regulation T.

Additionally, the audit requirements would be amended to require the independent public accountant to review the broker-dealer's compliance with Rule 15c3-3, Regulation T and Regulation U of the Board of Governors of the Federal Reserve System.

Comments should be submitted to the Commission by October 31, 1973 and bear the file number S7-496. (34-10392)

COMMISSION ANNOUNCEMENTS

NYSE PROPOSED INTERPRETATION OF THE TERM "AFFILIATED PERSON" AS USED IN SECURITIES EXCHANGE ACT RULE 19b-2 AND EXCHANGE RULE 318. The Commission announced on September 13 that it had sent a letter to the New York Stock Exchange informing it that its proposed interpretation of the term "affiliated person" is not in accord with the intent of Rule 19b-2 and requesting that the interpretation be withdrawn. The proposed interpretation sets forth certain circumstances under which the term "affiliated person" would include an institutional account over which a money manager exercises investment discretion. Under clause (b)(1) of Rule 19b-2, in order to find that a person is an "affiliated person" a finding of "control" must be made. NYSE Rule 318 contains identical language.

The NYSE's proposed interpretation would find the existence of "control" in all cases where, in addition to having investment discretion, a money manager, by contract or by furnishing additional services, has decreased the likelihood that his customer will dispense with his services in favor of those of another money manager on the basis of competitive merit alone.

The Commission found that the rigid approach implicit in the interpretation would deprive the term "control" of the flexibility which it intended that term to have by giving rise to an irrebuttable presumption of control without regard to whether, in a particular case, control is actually present. In Securities Exchange Act Release No. 9950, the terms "affiliated person" and "control" were assigned their traditional legal meanings and the NYSE was advised that those traditional meanings should be utilized in applying Rule 19b-2 and Rule 318. A determination that a broker-dealer is not engaged in a "public securities business" as defined in Rule 19b-2 and Rule 318 must be bottomed on findings more substantial and more carefully tailored to particular situations than those envisaged by the NYSE's proposed interpretations. All exchanges should carefully formulate questions to be put to their memberships and to applicants for membership designed to uncover the identities of affiliates and the amount of business done for the accounts of those affiliates. The burden of proof that a broker's business is in fact "private" business because of a control relationship with its customer must rest with the exchange seeking to deny membership.

The Commission also informed the exchange that it must find a control relationship between the broker and the person owning or ultimately responsible for the account, and not the account itself. Mobility of a managed account, the Exchange was informed, is an evidentiary factor in determining whether a money manager exercises control over the account, but it is not a definitive test of control. Similarly, the coupling of investment discretion over a customer's account with commercial banking, insurance or investment banking services does not prove the existence of a control relationship

although it may be evidence of it in some cases. Further, state law to the effect that "separate accounts" of an insurance company are to be deemed property of that insurance company has little, if anything, to do with whether the persons beneficially interested in or ultimately responsible for such accounts are in a control relationship with the insurance company. The Commission, therefore, determined that none of the hypothetical cases submitted by the NYSE set forth facts sufficient to support a predetermined finding of control by a money manager over the person owning or charged with custody of a pension fund or trust.

The Commission stated that it recognized that the NYSE interpretations would effect significant changes in the concept of the term "affiliated person" bringing the scope of that term closer to the formulation utilized by two Congressional subcommittees in drafting new legislation which the Commission believes reflects a valid legislative resolution of the issues involved. However, the Commission informed the Exchange that as a matter of administrative policy it did not believe that it should adopt that approach without first obtaining some practical experience with a somewhat more gradual formulation. (34-10391)

COURT ENFORCEMENT ACTIONS

COMPLAINT NAMES 29 RE BIO-MEDICAL SCIENCES INSIDER TRADING. The New York Regional Office announced that on September 13, 1973, the Commission filed a complaint in the U. S. District Court for New York seeking to enjoin 29 corporations, individuals and entities from further violations of the antifraud provisions of the securities laws by using and/or passing on material information concerning proposed financing of Bio-Medical Sciences, Inc., an over-the-counter stock, at a time when such information was not available to the investing public. Named as defendants are: F. L. Salomon & Co., New York, N.Y., Burton W. Blank, Riverdale, N.Y., Morgens, Waterfall & Co., Inc., Sunrise Partners, Edwin H. Morgens, John Waterfall, Fred C. Waldron and D. H. Blair & Co. all of New York, N.Y., William Bruckner, Brooklyn, N. Y., Emerging Securities Management Company, Inc., Emerging Securities Fund, both of New York, N.Y., J. Morton Davis a/k/a Joseph Morton Dabinowitz, Lawrence, N.Y., Waggoner Management Corporation and Robert C. Waggoner, both of New York, N.Y., Waggoner Overseas N. V., Curaco, Dutch Antilles, American Express International Banking Corporation, New York, N.Y., Aspen Fund II, Monarch Fund and Bruce Paul, all of Denver, Colorado, Research & Science Investors, International Technology & National Resources and Robert S. Asen, all of New York, N.Y., John French II, New Canaan, Conn., Schroeder, Naess & Thomas and Naess, Thomas Special Fund, Inc., both of New York, N.Y., Richard Doll, Plandome, N. Y., Rufus Poole, Jr., Garden City, N.J., Wood, Struthers & Winthrop, Inc. and Pieter Greegg both of New York, N.Y.

The complaint also requested that the Court order the defendants to make restitution and/or disgorgement of profits in connection with the purchase of Bio-Medical Sciences, Inc. common stock based on their illegal use of inside information concerning Bio-Medical's financing as alleged in the complaint. (LR-6056)

SECURITIES ACT REGISTRATIONS FILED

(Note: "Per share maximum" prices referred to in the following summaries of registration statements are prices estimated for the purpose of computing the registration fee and are not necessarily prices at which the securities will be sold.)

CHARTER NEW YORK CORPORATION, One Wall St., New York, New York 10005 - 370,500 shares of common stock. It is proposed to offer these shares in exchange for the capital shares of The First National Bank of Glen Head at a rate to be determined later (within a range of 1.125 to 1.30 Charter shares for each Glen Head share). Charter is a bank holding company. (File 2-48876 - Aug. 17)

DYCO PETROLEUM CORPORATION (the general partner) Gelco Bldg., 1300 South Second St., Hopkins, Minn. 55343 - 600 units of participation, and interests in Dyco Petroleum Corporation Oil and Gas Program 1974 (Drilling Program 74-1) (the Partnership), to be offered for sale at \$5,000 per unit by Dain, Kalman & Quail, Inc., as dealer-manager, and selected NASD members. The Partnership was organized to invest in oil and gas drilling programs. (File 2-48877 - Aug. 17)

APACHE GROVE LAND PROGRAM 1973, LIMITED (the Partnership), Foshay Tower, Minneapolis, Minn. 55402 - 240 program units to be offered for sale at \$10,000 per unit with a minimum subscription of 1/2 unit by Apache Programs, Inc., a subsidiary of Apache Corporation (the general partner). The Partnership has acquired 943 acres in California, from which it proposes to produce income from farming while holding part for appreciation. (File 2-48878 - Aug. 17)

ANCHOR SPECTRUM FUND, INC., Westminster at Parker, Elizabeth, N.J. 07207 - 2,500,000 shares of capital stock, to be offered for sale at net asset value plus a sales charge of 8.75% on purchases of less than \$10,000. Anchor is a diversified open-end management investment company, whose investment objective is return on invested capital from capital appreciation, dividend income, interest income or any combination thereof. Anchor Corporation will serve as investment adviser and principal underwriter. (File 2-48883 - Aug. 20)

ANCHOR SPECTRUM FUND, INC., Westminster at Parker, Elizabeth, N.J. 07207 - 12,582,009 shares of capital stock. It is proposed to offer these shares in exchange for stock of Anchor Capital Fund, Inc. and Anchor Venture Fund, Inc. Spectrum Fund was organized as a diversified open-end management investment company by Anchor Corporation, its investment adviser, and will seek a satisfactory return on capital. (File 2-48884 - Aug. 20)

FINANCIAL SERVICES CORPORATION OF THE MIDWEST, 230 18th St., Rock Island, Ill. 61201 172,592 shares of common stock. Of these shares, it is proposed to issue 45,147 in exchange for the common stock of Ribso, Inc., on a share-for-share basis and 127,345 shares in exchange for the outstanding common stock of Rock Island Bank and Trust Company, at the rate of 1.3 shares for each Bank share. As a result of the proposed mergers, Ribso, Inc., which now owns 25.37% of the outstanding common shares of the Bank, would change its state of incorporation to Delaware from Illinois and change its name to Financial Services Corporation (FSC), of the Midwest and the business of the Bank would be conducted by a wholly-owned subsidiary of FSC under the name of The Rock Island Bank. FSC will be regulated as a one-bank holding company. (File 2-48890 - Aug. 20)

JMB INCOME PROPERTIES - 1973, 875 North Michigan Ave., Chicago, Ill. 60611 - \$10 million of partnership interests, to be offered for sale at \$1000 per interest with a minimum purchase of five interests. The offering is to be made on a best efforts basis by Merrill Lynch, Pierce, Fenner & Smith, One Liberty Plaza, New York. The Partnership will invest in commercial and residential real properties. JMB Properties, Inc. is the general partner. (File 2-48891 - Aug. 20)

STOCK PLANS FILED. The following have filed Form S-8 registration statements with the SEC seeking registration of securities to be offered pursuant to employee stock and related plans:

Walter E. Heller International Corporation, Chicago, Ill. (File 2-48870) - 38,177 shares

First National Charter Corporation, Kansas City, Mo. (File 2-48882) - 75,000 shares

Builders Investment Group, Valley Forge, Pa. (File 2-48884) - 100,000 shares

Gray Drug Stores, Inc., Cleveland, Ohio (File 2-48885) - 100,000 shares

Ward Foods, Inc., Wilmette, Ill. (File 2-48892) - 478,924 shares

SECURITIES ACT REGISTRATIONS. Effective September 13: The Ballard & Cordell Corp., 2-47129; Computer Electron Systems, Inc., 2-48471; Curtis-Burns, Inc., 2-47412 and 2-47413; Cyprus Mines Corp., 2-48291; Gray Drug Stores, Inc., 2-48885; Northern States Power Co., 2-48805; Organizacion Ideal, S.A. De C.V., 2-48149; Pioneer Hi-Bred International, Inc., 2-48802; Sundstrand Corp., 2-48846; United Bank Corporation of New York, 2-48524. Effective September 14: Warner-Lambert Co., 2-49006.

MISCELLANEOUS

TRADING SUSPENSIONS CONTINUED. The SEC has ordered the suspension of (a) exchange and over-the-counter trading in the securities of Equity Funding Corp. and Giant Stores Corp., and over-the-counter trading in the securities of Trionics Engineering Corp. and Industries International Inc. for the further ten-day period September 14-23, inclusive; and (b) exchange and over-the-counter trading in the securities of TelePromTer Corp. and Koracorp Industries, and over-the-counter trading in the securities of Continental Vending Machines Corp. for the further ten-day period September 17-26, inclusive.

RECENT FORM 8-K FILINGS

Form 8K is a report which must be filed with the SEC by the 10th of the month after any of the following important events or changes: changes in control of the registrant; acquisition or disposition of assets; legal proceedings; changes in securities (i.e., collateral for registered securities); defaults upon senior securities; increase or decrease in the amount of securities outstanding; options to purchase securities; revaluation of assets; submission of matters to a vote of security holders.

The companies listed below have filed Form 8-K reports for the month indicated, responding to the item of the form specified. Photocopies may be purchased from the Commission's Public Reference Section (in ordering, please give month and year of report). An index of the captions of the items of the form was included in Monday's News Digest.

COMPANY	ITEM NO.	MONTH
UNARCO INDUSTRIES INC	7	08/73
UNION SERVICE INDUSTRIES INC	3	08/73
UNITED JENSEN BANKS	13	08/73
URS SYSTEMS CORP	13,14	08/73
VIACOM INTERNATIONAL INC	13	08/73
WASHINGTON STEEL CORP	13	08/73
WESTERN BUSINESS MACHING INC	9,11	08/73
WESTERN UNIONS CORP	13	08/73
WYLY CORP	2,9,11,13,14	08/73
ZALE CORP	11	08/73
SUSSIN SYSTEM INC	12,14	08/73
ABERDEEN PETROLEUM CORP	3,14	08/73
AERONCA INC	13,14	08/73
AHMANSON H F & CO	13	08/73
ALBERTSONS INC	7,13	08/73
ALICO LAND DEVELOPMENT CO	2,13,14	08/73
ALLIED PRODUCTS CORP	4,7,13,14	08/73
ALLIED STORES CORP	8	08/73
ALUMINUM CO OF AMERICA	3	08/73
AMERICAN TELECOMMUNICATIONS CORP	11,14	08/73
ATLANTIC RICHFIELD CO	3,7,13,14	08/73
AVCO CORP	3,13,14	08/73
BALTIMORE GAS & ELECTRIC CO	7,13,14	08/73
BANDAG INC	13,14	08/73
BAYLY CORP	7,8,14	08/73
BEVERLY HILLS BANCORP	3	08/73
BIJ MEDICUS INC	3,13,14	08/73
BOSTON CO INC	3,10,14	08/73
BREWSTER INDUSTRIES INC	8,13,14	06/73
CALSPAN CORP	2,14	08/73
CESSNA AIRCRAFT CO	13	08/73
CLEAR CREEK CORP	6	08/73
COMPUTER MACHINERY CORP	13	08/73
CONSURGICO CORP	3	08/73
COOPER TIRE & RUBBER CO	13	08/73
DILLINGHAM CORP	2,10	08/73
DUCCOMUN INC	7,8,14	08/73
ENVIRONMENT ONE CORP	7	08/73
ESB INC	10,14	08/73
EVANS PRODUCTS CO	4,13,14	08/73
FIRST NATIONAL CITY CORP	7,14	08/73
GENERAL REFRACTORIES CO	7,8	08/73
GENERAL TIRE & RUBBER CO	7,14	08/73
GLOBETROTTER COMMUNICATIONS INC	2,7,14	08/73
GRT CORP	7,8,10,13,14	08/73
HECKS INC	2,3,14	08/73
HORN & HARDART CO	7,14	08/73
HUDSON BAY MINING & SMELTING CO LTD	7,14	08/73

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Copies of registration statements may be ordered from the Commission's Public Reference Section. All other referenced material is available in the issue of the SEC Docket indicated in parentheses below the News Digest Issue No. Both the News Digest (\$33.00 a year, first class mail; \$8.25 additional for foreign mailing; \$25.00 additional for air mail) and the SEC Docket (\$17.00 a year, first class mail; \$4.25 additional for foreign mailing) are for sale by the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402.