

MEMO# 10461

November 10, 1998

SEC IMPOSES "AGREED-UPON PROCEDURES" REQUIREMENT ON CERTAIN BROKER DEALERS' YEAR 2000 READINESS REPORTS

1 Reports To Be Made by Certain Brokers and Dealers, SEC Release No. 34-40608; FR-53; File No. S7-7-98 (October 28, 1998); 63 Fed. Reg. 59208 (November 3, 1998) (the "Release"). 2 See Reports to be Made by Certain Brokers and Dealers, SEC Release No. 34-40162; File No. S7-7-98 (July 2, 1998). In a companion release accompanying the adoption of amendments to Rule 17a-5, the Commission solicited additional comments on the appropriate scope of independent public accountant review, including the feasibility and desirability of an agreed-upon procedures engagement, as was suggested by the American Institute of Certified Public Accountants ("AICPA"). See SEC Release No. 34-40164; File No. S7-7-98 (July 2, 1998). 3 The Commission recently adopted a similar requirement for transfer agents. See Memorandum to Accounting/Treasurers Members No. 33-98, Compliance Advisory Committee No. 36-98, Internal Audit Committee No. 12-98, Operations Committee No. 41-98, and SEC Rules Members No. 89-98, dated October 30, 1998. 1 [10461] November 10, 1998 TO: ACCOUNTING/TREASURERS MEMBERS No. 38-98 COMPLIANCE ADVISORY COMMITTEE No. 37-98 INTERNAL AUDIT COMMITTEE No. 13-98 OPERATIONS COMMITTEE No. 43-98 SEC RULES MEMBERS No. 94-98 RE: SEC IMPOSES "AGREED-UPON PROCEDURES" REQUIREMENT ON CERTAIN BROKER DEALERS' YEAR 2000 READINESS REPORTS

The Securities and Exchange Commission recently amended Rule 17a-5 under the Securities Exchange Act of 1934 to require certain broker-dealers to file with the Commission and their designated examining authorities ("DEA") a report prepared by an independent public accountant (a "CPA") regarding the broker-dealer's Year 2000 remediation efforts.¹ As amended last July, Rule 17a-5 requires each broker-dealer with a minimum net capital requirement of \$5,000 or greater to prepare and file with the Commission and each of its DEAs Y2K readiness reports on new Form BD-Y2K.² Specifically, broker-dealers that have a minimum net capital requirement of less than \$100,000 are required to file Part I of the form, a check-the-box style report. Broker-dealers with a minimum net capital requirement of \$100,000 or greater are required to file Part I and Part II of the form, a detailed narrative discussion of Y2K readiness efforts. The Commission recently further amended the rule to require each broker-dealer that is required to file Part II of Form BD-Y2K to include with that filing a report prepared by a CPA regarding the broker-dealer's process for addressing Y2K Problems.³ The CPA's report, as well as the second Form BD-Y2K it will accompany, is due on April 30, 1999, and will reflect the broker-dealer's Y2K efforts as of March 15, 1999.

Moreover, both the report and the form will be made available to the public. The Release is attached and discussed below. 4 Specifically, the Auditing Standards Board, which is responsible for setting auditing and attestation standards and procedures followed by AICPA members, issued Statement of Position 98-8, which is designed to permit the CPA to (i) provide valuable information on the existence and sufficiency of a broker-dealer's process for addressing Y2K problems; (ii) provide an independent verification of the accuracy of the information contained in the broker-dealer's second Form BD- Y2K; (iii) aid the Commission in obtaining a more complete understanding of the industry's overall Y2K preparations; and (iv) identify firm-specific and industry-wide problems. 2 According to the Release, each covered broker-dealer must engage a CPA to perform an "agreed-upon procedures" engagement in accordance with standards developed by the AICPA.⁴ Under those standards, the CPA will consider (i) the broker-dealer's plan for addressing Y2K problems, (ii) its efforts to repair its affected computer systems, (iii) its tests of completed repairs, and (iv) its efforts to monitor the progress of the Y2K project. The Release also emphasizes that the CPA's report has a specific regulatory purpose and "is not intended to express an opinion or finding regarding whether the broker-dealer is Y2K compliant." Accordingly, the report will not make any representation regarding the sufficiency of the procedures performed or express an opinion on the broker-dealer's assertions included in Form BD-Y2K. Nor will the report represent that the procedures performed provide any assurances that the broker-dealer is or will be Y2K ready, that its Y2K project plans will be successful in whole or in part, or that parties with which the broker-dealer does business will be Y2K ready. Barry E. Simmons Assistant Counsel Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Library Services Division at (202)326-8304, and ask for this memo's attachment number: 10461.