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Michael M. Murphy, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re ENRON CORPORATION SECURITIES
LITIGATION

§ Civil Action No. H-01-3624
§ (Consolidated)

§
§
§ CLASS ACTION

This Document Relates To:

MARK NEWBY, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, et al., Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

**NOTICE OF SUPPLEMENTAL AUTHORITY IN FURTHER SUPPORT OF LEAD
PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER DISMISSING
CLAIMS AGAINST DEUTSCHE BANK DEFENDANTS (DOCKET NO. 2101)**

2376

Lead Plaintiff offers for the Court's consideration the document titled: "Deutsche Bank Americas, Deutsche Bank Securities, Compliance Policies & Procedures Manual" (the "Manual").¹ In moving for reconsideration of this Court's dismissal of plaintiffs' fraud claims levied against Deutsche Bank and its affiliates, Lead Plaintiff's Reply Brief in Further Support of its Motion for Reconsideration of Order Dismissing Claims Against the Deutsche Bank (the "Reply Brief") (Docket No. 2199) cites a Citigroup memorandum concerning underwriters' responsibilities in selling securities to investors. *See id.* at 12. The Reply Brief explains:

Plaintiffs have been unable to locate Deutsche Bank's due diligence policies within Deutsche Bank's document production in this matter, and are uncertain as to whether Deutsche Bank has produced such documents. Regardless, Citigroup's due diligence policies sufficiently indicate industry norms.

¹ Because the Manual is 519 pages, Lead Plaintiff attaches hereto those specific portions of the Manual that are relevant to Deutsche Bank's motion for dismissal, including Deutsche Bank's "Confidential, Material, Non-Public Information, Chinese Walls, Insider Trading and Related Matters Policy," Deutsche Bank's "Procedures for Supervision of Communications with the Public," and Deutsche Bank's "Due Diligence Procedures Policy." Plaintiffs would be happy to provide the Court a complete copy of the Manual upon request.

Id. at 12 n.5. Lead Plaintiff now offers Deutsche Bank's Manual in support of its Motion for Reconsideration.

DATED: September 1, 2004

Respectfully submitted,

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
WILLIAM S. LERACH
DARREN J. ROBBINS
HELEN J. HODGES
BYRON S. GEORGIU
JAMES I. JACONETTE
MICHELLE M. CICCARELLI
JAMES R. HAIL
ANNE L. BOX
JOHN A. LOWTHER
TRIG R. SMITH
ALEXANDRA S. BERNAY
MATTHEW P. SIBEN
ROBERT R. HENSSLER, JR.


MATTHEW P. SIBEN (by permission)

401 B Street, Suite 1700
San Diego, CA 92101
Telephone: 619/231-1058

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
REGINA M. AMES
355 South Grand Avenue, Suite 4170
Los Angeles, CA 90071
Telephone: 213/617-9007

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
G. PAUL HOWES
JERRILYN HARDAWAY
Texas Bar No. 00788770
Federal I.D. No. 30964
1111 Bagby, Suite 4850
Houston, TX 77002
Telephone: 713/571-0911

Lead Counsel for Plaintiffs

SCHWARTZ, JUNELL, GREENBERG
& OATHOUT, LLP
ROGER B. GREENBERG
State Bar No. 08390000
Federal I.D. No. 3932



ROGER B. GREENBERG

Two Houston Center
909 Fannin, Suite 2000
Houston, TX 77010
Telephone: 713/752-0017

HOEFFNER & BILEK, LLP
THOMAS E. BILEK
Federal Bar No. 9338
State Bar No. 02313525
440 Louisiana, Suite 720
Houston, TX 77002
Telephone: 713/227-7720

Attorneys in Charge

BERGER & MONTAGUE, P.C.
SHERRIE R. SAVETT
1622 Locust Street
Philadelphia, PA 19103
Telephone: 215/875-3000

Attorneys for Staro Asset Management

WOLF POPPER LLP
ROBERT C. FINKEL
845 Third Avenue
New York, NY 10022
Telephone: 212/759-4600

Attorneys for Nathaniel Pulsifer

SCOTT + SCOTT, LLC
DAVID R. SCOTT
NEIL ROTHSTEIN
S. EDWARD SARSKAS
108 Norwich Avenue
Colchester, CT 06415
Telephone: 860/537-3818

**Attorneys for the Archdiocese of Milwaukee
Supporting Fund, Inc.**

LAW OFFICES OF JONATHAN D. McCUE
JONATHAN D. McCUE
4299 Avati Drive
San Diego, CA 92117
Telephone: 858/272-0454

**Attorneys for Imperial County Board of
Retirement**

CUNEO WALDMAN & GILBERT, LLP
JONATHAN W. CUNEO
MICHAEL G. LENETT
317 Massachusetts Avenue, N.E.
Suite 300
Washington, D.C. 20002
Telephone: 202/789-3960

Washington Counsel

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF SUPPLEMENTAL AUTHORITY IN FURTHER SUPPORT OF LEAD PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER DISMISSING CLAIMS AGAINST DEUTSCHE BANK DEFENDANTS (DOCKET NO. 2101) document has been served by sending a copy via electronic mail to serve@ESL3624.com on this September 1, 2004.

I further certify that a copy of the foregoing NOTICE OF SUPPLEMENTAL AUTHORITY IN FURTHER SUPPORT OF LEAD PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER DISMISSING CLAIMS AGAINST DEUTSCHE BANK DEFENDANTS (DOCKET NO. 2101) document has been served via overnight mail on the following parties, who do not accept service by electronic mail on this September 1, 2004.

Carolyn S. Schwartz
United States Trustee, Region 2
33 Whitehall Street, 21st Floor
New York, NY 10004



Mo Maloney

Deutsche Bank Americas

Deutsche Bank Securities

Compliance Policies & Procedures Manual



Deutsche Bank





Confidential, Material, Non-Public Information, Chinese Walls, Insider Trading and Related Matters Policy

Effective Date: October 1, 1997
Last Revised Date: September 11, 2002
Owner: Control Group Compliance
Approver: Mary Owen

Introduction to Policy Statement

This policy statement shall apply, without exclusion, to every employee of Deutsche Bank Americas (hereafter, Deutsche Bank or the Firm). This policy statement also contains a section entitled **Certain Communications Between Broker-Dealer and Asset Management Employees**. For legal and business reasons, it is essential that our clients, prospective customers and others are confident that they can rely on our integrity and discretion to protect and properly use the confidential information they entrust to us.

In the United States and abroad, the securities industry is one of the most heavily regulated industries. As a global, multi-service financial institution, Deutsche Bank and its employees are subject to a multitude of securities laws and rules. In the conduct of business Deutsche Bank and its employees must comply with the letter and spirit of these laws and rules.

The policies and procedures set forth in this manual have been established to help ensure that Deutsche Bank and its employees do not violate the laws and rules of our legislators and regulators. Therefore, it is imperative that Deutsche Bank and its employees adhere to these policies and procedures. Failure to comply with them may subject you to disciplinary action, including possible dismissal and civil or criminal penalties. Also, if you become aware of an apparent violation of these policies and procedures by another employee, you must report the relevant facts to the Compliance Department.

No written policy can anticipate every situation. Use common sense and good judgment when responding to situations that may not be specifically covered by these standards, and recognize when you need to seek advice regarding the application of these policies and procedures.

Treatment of Confidential Information

What is Confidential, Material, Non-Public or Inside Information?

Confidential information refers to business matters not generally known or made available to the public. You should generally presume that all business information acquired in connection with your responsibilities at Deutsche Bank regarding the Firm, its clients and business transactions is confidential unless the contrary is clearly evident.

Multi-service firms routinely come into possession of confidential, material non-public information, particularly in connection with investment banking activities. In order to permit multi-service firms to continue normal sales, trading and research activities while in possession of confidential, material non-public

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information, a theory has evolved which holds that if a firm has established strict procedures designed to prevent the flow of confidential, material nonpublic information from investment banking activities to other activities of the firm (e.g., sales, trading and research), the firm will not be deemed to be using insider information with respect to such other activities. Such procedures are commonly referred to as "Chinese Wall" procedures.

Confidential, non-public information concerning Deutsche Bank or its clients is considered "material" if there is a likelihood that a reasonable investor would consider the information important in making a decision to buy, hold or sell a security. Information is "non-public" when it is not generally available to investors in the marketplace. When it has not been circulated to the general public by means such as a newswire, press release or SEC filing, or there has not been a reasonable amount of time for the information to be absorbed in the market place. If you have any doubt at all as to whether information relayed to you should be treated as confidential inside information, you should raise the issue with the Compliance Control Group before discussing it with any other person or entity.

Examples of material, non -public information include (but are not limited to):

- Advanced knowledge of a scheduled dividend increase or reduction;
- Declarations of stock splits and stock dividends;
- Financial forecasts, especially earnings estimates and changes in previously disclosed financial information;
- Mergers, acquisitions or takeovers;
- Plans to issue or redeem securities;
- Significant changes in operations;
- Proprietary or fiduciary trading positions and strategies;
- The award of a significant contract;
- Significant new product introduction;
- Discoveries of oil and gas, minerals or the like;
- Extraordinary borrowings;
- Major litigation or financial liquidity problems;
- Significant changes in management;
- The purchase or sale of substantial assets;

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- Advance knowledge of a Deutsche Bank research opinion or report.

Policy Statement

Deutsche Bank's Policy on the Treatment of Material, Non-Public Information

Protecting the Confidentiality of Material, Non-Public Information

Improper disclosure or misuse of material, non-public information is prohibited. Failure to comply with the Firm's policies and procedures for the preservation of confidential, material, non-public information may be grounds for termination. As a general rule, every employee should exercise the utmost care with confidential information in order to avoid violations of legal or ethical constraints set forth by our regulators.

If you receive confidential information you should report it to the Control Group immediately.

You are reminded to exercise caution when discussing sensitive information outside of the office. You should use special care in elevators, when speaking on cellular phones, when sending information by messenger services or by modem or facsimile transmission, when travelling (particularly on airplanes), while at social gatherings, and in other public places to ensure that casual conversation or inadvertent displays of written material do not lead to disclosure of such information. Within the Firm, you should be cautious in conversation to avoid dissemination of non-public information to people who do not have a bona fide "need to know".

Confidential documents, electronic or otherwise, should be secured and not left in places where they may be taken or read by others. This is true even when code names are used. Further, you should not circulate or discuss outside of the Firm, documents that relate to investment banking projects and other proprietary material, such as client lists, project pipelines or the restricted list. Mark confidential documents as "CONFIDENTIAL". Shred documents that are no longer needed. Protect documents and files by locking cabinets at the end of the workday.

If you become aware of anyone at Deutsche Bank who is misusing confidential information or is taking a cavalier attitude in this regard, you have an obligation to notify your immediate supervisor or the Control Group. Be mindful of consultants and temporary staff. Exercise care to ensure that they do not gain unauthorized access to or mishandle confidential information. When deemed appropriate by business line management or when required by local regulations, outside personnel should be required to sign a confidentiality agreement (as approved by the Legal Department) to confirm their awareness and understanding of this policy. If someone shows an unusual and unexplained interest in an investment-banking project and that individual has no legitimate business reason to be apprised of such information, you should report such activity to your supervisor or the Control Group.

Public Statements and Shareholder Communications

When Deutsche Bank information is released to the public it must be accurate and appropriately disclosed. Since a public statement made by a Deutsche Bank employee – even a statement that does not release any confidential information – could embarrass the Firm or subject it to liability, all contact with shareholders and security analysts should be cleared in advance with Corporate Communications.

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All requests for speeches, interviews or comments for use in broadcasts, newspapers, magazines or other media must be referred to, or cleared by, Corporate Communications. When practical, this department should be furnished with, and given an opportunity to comment on either the text or an outline of both the statement or speech and responses to any likely questions.

The Treatment of Rumors

Various securities laws prohibit the circulation of rumors when the underlying intent of the rumor is to influence the price of a publicly traded security. As a general rule, you should refrain from conveying rumors to others. If you have reason to believe that a particular rumor is being circulated to influence the market, you should report the matter to the Control Group.

Securities trading on the basis of unsubstantiated rumors may subject you or the Firm to regulatory scrutiny and civil or other penalties. Keep in mind that recommendations to clients must have a reasonable basis in fact. If you are uncertain about the treatment that you should afford a particular rumor contact the Control Group.

The Control Group, The Walls

The Control Group

A Control Group has been established within the Compliance Department to oversee adherence to various laws that govern the use of material, non-public information, "Insider Trading" regulations, and Deutsche Bank's Chinese Wall policy and procedure.

The Control Group is responsible for administering the Firm's Chinese Wall procedures and determining when the securities of an issuer should be added to the "Watch and/or the Restricted List. The Control Group procedures serve several purposes, including:

- Ensuring compliance with SEC rules which prohibit certain trading activities by the Firm and its employees when it is participating in securities offerings and, or certain other distributions of securities;
- Ensuring compliance with regulatory rules for the dissemination of research and other written materials;
- Butressing Chinese Wall policy by preventing the appearance of impropriety in connection with trading decisions or recommendations.

The Walls

Business-related communications between persons behind Primary Chinese Walls should be minimized. Personnel are directed not to discuss particular transactions or securities with persons who do not have a legitimate need to know, even if those discussions do not involve material, non-public information.

Certain Firm personnel are required to transcend the Chinese Wall from time to time. Department Heads and Senior Managers, when performing their overall management responsibilities, are often required to have ongoing contact with senior personnel from other departments. These discussions may occasionally require

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that material, non-public information about transactions or securities be communicated. Senior management may not participate or use that information to influence trading decisions or strategies, research analyses or recommendations, or other activities involving the affected companies or securities; nor may they pass that information along to others in their department for use in such activities.

In limited situations, communicating material, non-public information to a person involved in a Trading or Advising Function may be necessary to achieve a legitimate business purpose. For example, an investment research analyst's expertise in a particular industry may be necessary concerning a proposed corporate finance transaction.

Any communication of material nonpublic information from the "Private" side of the Chinese Wall (M&A, corporate advisory, corporate finance) to the "Public" side of the Chinese Wall (trading, sales and research) must be handled through the Control Group prior to initiating any contact with the employee.

Certain Communications Between Broker-Dealer and Asset Management Employees

Deutsche Asset Management, as well as certain other U.S. and non-U.S. based asset management affiliates (referred to collectively in this policy as "Deutsche Asset Management"), acts as a fiduciary and is required to act solely in the interests of the client whose assets it manages. On occasion, other Deutsche Bank affiliates, including DBSI, may have engagements and responsibilities which could have the appearance of a conflict with Deutsche Asset Management. To minimize these conflicts, as a general rule, DBSI employees should have no contact with employees of Deutsche Asset Management regarding any business matter other than certain permitted activities. Permitted contact would include (1) employees in custody may have conversations with employees of Deutsche Asset Management regarding aspects of the custody relationship, (2) DBSI employees may have conversations with employees of Deutsche Asset Management regarding (a) joint selling efforts in connection with the transition services business and issues related to such engagements, (b) a trade initiated by Deutsche Asset Management with DBSI, and (c) any activities that involve a co-venture of Deutsche Asset Management and DBSI personnel. In addition, nothing in this rule would prohibit DBSI personnel from participating in Bank conferences or meetings where general presentations may be made regarding the Bank's businesses. Should the need arise for other exceptions to the rule, persons affiliated with DBSI must contact Legal or Compliance and receive permission to have the communication. Under no circumstances should persons affiliated with DBSI have conversations with a Deutsche Asset Management employee concerning investment decisions and proxy votes

Crossing The Chinese Wall

Any communication of material, non-public information from the "Private" side of the Chinese Wall to an employee on the "Public" side of the Chinese Wall must be handled through the Compliance Department. The Wall Crossing Procedure comprises several steps as follows:

Notification: Prior to a wall crossing, a member of the Control Group must be notified by the proponent of the intent to bring a "Public" side employee over-the-wall. The notification shall include the name of the person who will be brought over-the-wall and the reason for the proposed wall crossing. The Control Group coordinates the determination process along with the relevant business line managers.

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Determination: A determination to permit a wall crossing and the nature and extent of the communication (including advice as to the consequences flowing from such a crossing) will be made by a combination of the proponent of the wall crossing and Management, and, if necessary, counsel in the Legal Department and a member of the Control Group.

Record keeping: Each approved crossing will be memorialized and maintained in the Control Group's deal files.

Monitoring: Employee and proprietary trading and/or research activity in the affected security will be monitored by the Control Group until the completion of the transaction or engagement prompting the wall crossing.

Employees who fail to comply with these procedures or instructions to bring personnel "Over-The-Wall" may be disciplined.

Employees brought over-the-wall will be restricted, to the extent necessary, from engaging in their customary activities with respect to the securities of the companies for which they are in possession of non-public information. This restriction will apply from the time they receive said information until that information either becomes publicly available or ceases to be material. In relation to a particular transaction, personnel brought over-the-wall will be given access only to such information as is necessary for them to fulfill their previously authorized role in the transaction. Other than with respect to the securities of the companies involved in the particular transaction, the employee may continue to work in their normal area of operation. For this reason, extreme care should be taken to ensure that employees who are brought over-the-wall do not inadvertently receive more non-public information than is absolutely necessary for the intended purpose. Exercise caution and do not prevent the employee from normal operations for an unduly longer period.

While the Chinese Wall does not preclude the flow of public information from research, sales, and trading areas to investment banking, the confidentiality of sales and trading clients must be protected. The trading activities of clients of the Firm generally may not be disclosed to investment banking.

The Watch List, and The Restricted List

On some occasions, it is not possible to rely solely on Chinese Wall procedures to control possible misuse of material, non-public information or compliance with regulatory requirements inherent to certain types of transactions. Deutsche Bank maintains a Watch List and a Restricted List to supplement the Chinese Wall. These lists include varying levels of limitations based on legal, regulatory and business reasons. These lists may include all of an issuer's outstanding securities or certain classes of such securities.

Deutsche Bank's Watch and Restricted Lists procedures apply when certain conditions are met, such as when a business area within Deutsche Bank:

- possesses material, non-public information about or affecting an issuer or their securities;
- is involved in a securities offering or significant transaction affecting an issuer or their securities; or

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- Issuing to the public a significant change in the Firm's investment recommendation regarding certain securities or issuers.

Typically, an issuer or any class of its securities may first be placed on the Watch List at the earliest stages of a transaction, as further described below. Once a material merger, acquisition, divestiture or related transaction is publicly disclosed, or a registration statement in connection with an underwriting has been filed, the issuer (or security) may be placed on the Restricted List subject to the appropriate level of restriction.

Certain business units that are routinely involved in the Firm's investment banking and advisory businesses follow specific procedures for providing deal information to the Compliance Department. If you are assigned to a department that does not have such procedures and you become aware of material nonpublic information about or affecting a publicly traded issuer or its securities, you should immediately notify the Compliance Control Group.

The Watch List

When a potential project proceeds beyond the conceptual stage to the point in which a client, or potential client, has indicated preliminarily that it may be interested in effecting an offering of securities or other material transaction, the Control Group must be promptly notified. Examples of relevant transactions include but are not limited to, underwritings, private placements, rule 144A transactions, mergers, acquisitions, leveraged buy-outs, divestitures, restructurings, and refinancings.

Determining when an issuer should be placed on the Watch List and whether research should be subject to screening or restriction can be difficult, particularly for investment banking transactions. The mere discussion by an issuer of its official situation, or the fact that there has been contact between a client firm and another issuer, may not be sufficient to trigger placing an issuer or its securities on the Watch List. When in possession of material, non-public information with regard to a corporate action under consideration by an issuer, it is appropriate to add the subject issuer to the Watch List. Once a preliminary plan has been formulated, typically, it is also appropriate to add the subject issuer or its securities to the Watch List. It is not necessary that all of the elements of the proposed transaction be formalized, only that a preliminary plan of action be in place. It is not essential for the client to have signed an engagement letter or have determined with finality that it will use Deutsche Bank's services in the proposed transaction. The level of an issuer's receptivity to a business pitch is sufficient to warrant adding it to the Watch List. In each instance, the key considerations in determining whether an issuer or its securities should be added to the Watch List is whether the proposed transaction may be viewed as material and whether the relative likelihood of such transaction being consummated.

When securities should be placed on the Watch List a Control Group member must be notified as promptly as possible. The securities placed on the Watch List should include those of our client, the target company (in the context of a merger), the prospective bidder and other affected companies.

Distribution of the Watch List is limited to a small universe of employees and access to the Watch List is permitted only on a need-to-know basis. The Control Group is responsible for the distribution of the Watch List and for periodically reviewing the adequacy of security measures and procedures the Watch List recipients have in place in order to protect the confidentiality of the Watch List.

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The Watch List is used primarily to monitor trading activity in employee, employee-related, Firm proprietary and customer accounts. In this way the Watch List serves as a check to assure that the Chinese Wall is functioning effectively. Inclusion of an issuer on the Watch List does not in any way limit Firm market making and other proprietary trading, including the solicitation of client orders; although, it may necessitate limitations on research activity.

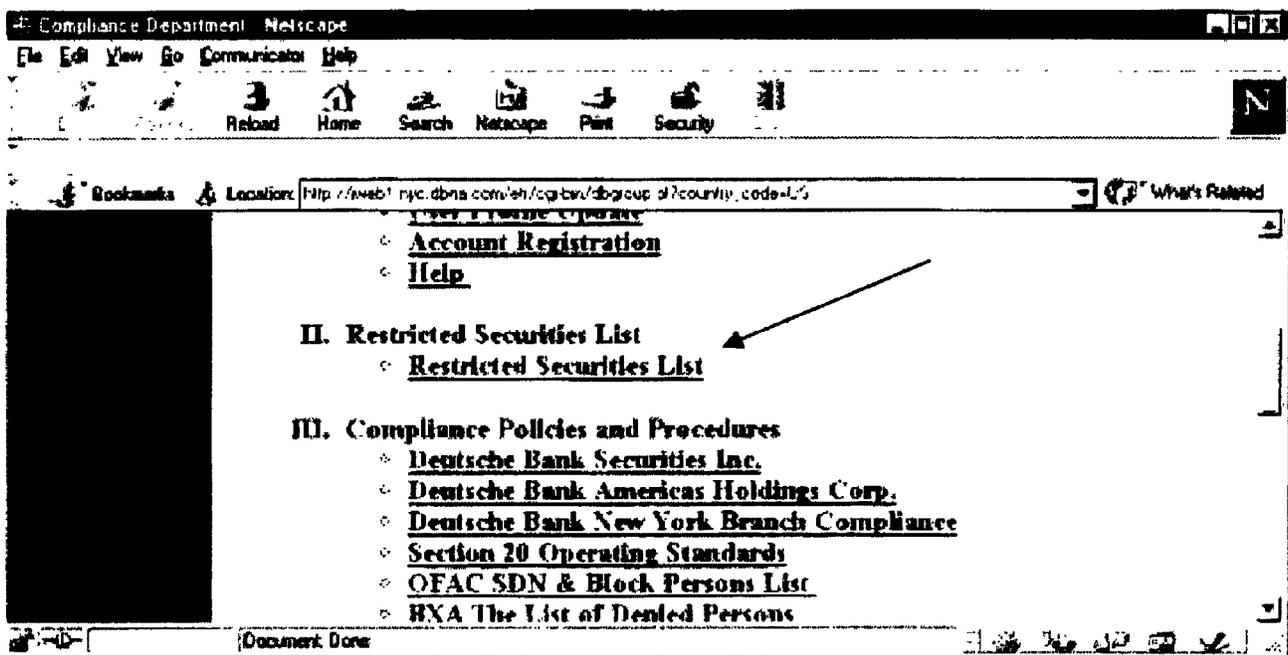
The Control Group must be informed in a timely manner of the termination of an agreement or engagement, or of any material changes in the circumstances that would affect the continued placement of an issuer or its securities on the Watch List. In any event, the Control Group will periodically contact the senior investment banker to review the status of pending transactions to determine whether it is necessary to continue to monitor the transaction.

The Restricted List

The Restricted List is a conduct-blocking device designed to prevent, among other things, the misuse of material, non-public information. It is comprised of securities in which the normal trading or recommending activity of the Firm and its employees is prohibited or subject to specified restrictions as described in the List. The restrictions are based on Federal securities laws, regulatory rules and/or Firm policy.

The Restricted List is distributed electronically, on a real time basis, to a Website and to a file for access by Trading and Sales area Technical Support personnel. It is located on the Deutsche Bank Americas Portal, as indicated below:

Picture of Compliance Web-site indicating with the link to Restricted List



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Direct Link to Website:

http://hbmvs02.btco.com/corp/ccf/grl/grl_init.htm

Path to Website from America's Portal:

Corporate Center / US Compliance / Restricted List

An issuer and its securities are placed on the Restricted List for several reasons, including:

- Deutsche Bank is involved in an investment banking transaction that has been publicly announced;
- Deutsche Bank is involved in an underwriting or distribution of securities which has been publicly announced or with respect to which a filing has been made with the SEC; or in accordance to the guidelines as set out in Regulation M of the Securities Exchange Act of 1934.
- Deutsche Bank is issuing to the public a significant change in the Firm's investment recommendation regarding certain securities or issuers; or,
- Deutsche Bank decides to restrict trading in a particular security due to an extraordinary event, such as an internal investigation, necessitating a restriction.

Additional information about restricted activities can be obtained from the Control Group.

In all instances, placement of an issuer or its securities on the Restricted List should not be viewed as a substitute for adherence to the Chinese Wall policy. Even when an issuer is on the Restricted List, the Chinese Wall remains in place. Persons possessing material, non-public information should continue to take precautions to safeguard that information and should refrain from disclosing it to others who do not have a legitimate "need to know". In addition, personnel who are not working on the transaction may not request non-public information regarding the transaction. All employees have an obligation to ensure that the Chinese Wall is maintained and that the "Wall Crossing" procedures are adhered to.

As is apparent, issuers or securities may be added to the Restricted List for reasons other than the Firm's possession of material, non-public information. Therefore, no conclusion should be drawn from the addition of an issuer to the Restricted List.

The Restricted List information is widely distributed within Deutsche Bank. However, the Restricted List is confidential proprietary information and should not be distributed outside of the Firm. From time to time, a customer might want to know why the Firm is not trading in the securities of a particular issuer which you know to be on the Restricted List. In response to any inquiry, you should reply simply that we are not able to take a position or make a recommendation regarding the particular security at this time. There may be instances when disclosure of the identity of an issuer on the Restricted List is unavoidable in the interest of preserving a client relationship. Even if you divulge the issuer's presence on the Restricted List, unless the

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reason and the Firm's involvement have been previously made public by way of a press release, similar public announcement or SEC filing by the client, you may not communicate the reason for its presence on the list.

Waivers and exceptions to any trading restrictions identified on the Restricted List require the specific approval of the Compliance Department. Violation of the trading restrictions could subject the Firm and the employee involved to civil or criminal penalties, as well as other disciplinary actions.

If You Have Questions:

You should refer to the Compliance Department all questions concerning the interpretation or application of these policies, the propriety of any particular conduct, or other compliance-related matters.

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Procedures for Supervision of Communications with the Public

Effective Date: May 31, 2000
Owner: DBA Compliance
Approver: Mary Owen

Governing Policy: Supervision of Communication with the Public

NYSE and NASD ("SRO") Rules require DBSI to institute written policies and procedures for the review of correspondence with the public relating to its investment banking and other businesses. The procedures must be tailored to DBSI's structure, the nature and size of its business, and the content and audience of its communications. Further, the procedures must provide for "reasonable" supervision of each RR. A qualified supervisory principal must perform and evidence such supervision (either manually or electronically).

Pursuant to Policy Statement, "Supervision of Communications with the Public", the following procedures for the supervision of communications with the public have been developed. These procedures cover the pre-use review of outgoing communications (electronic and non-electronic), the review of non-electronic incoming correspondence and the review of incoming and outgoing electronic correspondence (not subject to pre-use review).

Designated Supervisory Principals ("Principals") will be responsible for complying with these procedures. Principals may assign a designee; the designee must have the necessary supervisory registrations. A list of each principal/designee will be maintained by the Compliance department and will be updated as necessary. It is the responsibility of each Department Head to notify Compliance of any change.

In accordance with NYSE Rule 472, NASD Rule 2210, and DBSI policy, DBSI must pre-approve certain specific types of outgoing communications regardless of the medium in which the communications are prepared and delivered (e.g., hard copy documents, facsimiles, E-mail, etc.) Advertisements and sales literature are subject to pre-use review. Advertisements and sales literature are defined in the Definitions section of Supervision of Communication with the Public, and repeated below.

Employees are prohibited from communicating with the public in any written manner that cannot be monitored, supervised and retained by DBSI. Therefore, external written communications with customers (e.g., from employees' home computers, any computer not on DBSI's systems or through any third party E-mail system not used by DBSI) are prohibited.

"Communications with the public" are defined as:

Advertisements - Material published or designed for use in a newspaper, magazine or other periodical, radio, television, telephone or tape recording, videotape display, signs or billboards, motion pictures, telephone directories (other than routine listings), electronic or other public media.

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Sales Literature - Any written or electronic communication distributed or made generally available to customers or the public, which communication does not meet the foregoing definition of "advertisement." Sales literature includes, but is not limited to, circulars, research reports, market letters, performance reports or summaries, form letters, telemarketing scripts, seminar texts, and reprints or excerpts of any other advertisement, sales literature or published article.

Correspondence - Any written or electronic communication prepared for delivery to a single current or prospective customer, and not for dissemination to multiple customers or the general public.

Review of Outgoing Communications (Electronic and Non-Electronic) Subject to Pre-Use

Review (Including E-mails and Faxes)

All outgoing electronic (including Bloomberg messages, DBSI E-mail, facsimiles, or any other electronic media) and non-electronic communications prepared by a registered representative ("RR") of DBSI that is subject to pre-use review must be reviewed and approved by a Principal or his/her designee prior to dissemination. Electronic communications subject to pre-use review must be printed in hard copy with approvals evidenced by the initials of the Principal/designee.

Upon review and approval, the Principal/designee must retain copies of the correspondence in a file or files sorted first by RR, then chronologically.

The RR should also retain a copy of the approved correspondence in a chronological file.

These files are required to be kept for at least three (3) years, the first two (2) in an easily accessible manner.

Review of Incoming and Outgoing Electronic Correspondence not Subject to Pre-use Review

The Firm uses Assentor (an outside vendor product) to monitor and review all E-mail (Bloomberg and Internet) correspondence. Assentor provides a fully functional E-mail message screening and archiving solution. Assentor enables the Firm to "flag" potentially inappropriate communications, such as high-pressure sales tactics or insider trading, as well as communications that should be subject to supervisory scrutiny (e.g., potentially litigious matters such as customer complaints), for manual review by the appropriate Principal or designee. These flagged E-mails are quarantined for human analysis and review. Messages that Assentor deems as having met the threshold for further review are "quarantined", or segregated, from the remainder of the messages. Messages are stored as "Non-Quarantined" or "Quarantined".

Assentor evaluates not only particular words and phrases, but also the context in which those words and phrases are used. Assentor uses a sophisticated, linguistics-based natural language pattern-matching engine and continuously refines search patterns to ensure the review process effectively eliminates the time spent on unnecessary manual reviews. Assentor will allow the Principal/designee to perform a review of all quarantined E-mail of those registered persons under that person's supervision, as required by NASD and NYSE regulation.

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Assentor can be pre-programmed to perform an automatic review for the quarantine of E-mail correspondence at several threshold levels. Compliance has determined the initial threshold best used as a general setting as "Medium Trust Compliance->Post-review". Assentor can be set for more stringent review of E-mail for any registered representative under special supervision, or any business area that requires special review.

The Principal/designee will have access only to the E-mail of those persons under his/her supervision. Assentor will sort the E-mail to be reviewed by each individual. The E-mail will be identified as either Bloomberg or Internet E-mail. The Principal/designee will be able to enter a file with the quarantined E-mail of each person and review the E-mail on-screen. If the communication is acceptable, the Principal/designee can approve the E-mail and it will be marked electronically as such and removed from quarantine. This review should be done on a daily basis to provide the timely review of any possible problems.

Assentor not only stores the E-mails but also provides message logs containing the number of E-mails received, quarantined, and reviewed, as well as the result of any review.

Each business area must assign at least one person to be administrator for Assentor. It is the responsibility of the administrator to update Assentor as to new/old employees in their area. Before a new employee begins employment with DBSI, his/her supervisor should be designated and his/her user information added to Assentor. Compliance must be notified of the identity of each administrator.

Review of Incoming Correspondence (Non-Electronic)

All non-electronic incoming correspondence is subject to review, regardless of any "Personal", "Confidential" or other qualifying marks. It is DBSI's obligation to properly supervise the activities of its personnel and acceptance of this procedure is a condition of each person's employment.

All non-electronic incoming correspondence (including faxes) will be delivered first to a Principal/designee who will be responsible for the review of such correspondence for any customer funds or securities, any customer complaints, or any questionable documents.

The designated person must not be supervised or under the control of the person whose correspondence is opened and reviewed.

Customer funds and securities must be removed from the correspondence and forwarded to the Margin Department for entry in the customer's account.

Any customer complaints should be handled in accordance with Compliance Policy Statement "Handling of Customer Complaints".

Any questionable documents should be brought to the attention of the Department Head and Compliance. After correspondence has been reviewed, it should be forwarded to the addressee with a notation regarding any documents that have been removed.

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Originals of all correspondence received relating to DBST's business as such must be preserved for at least three (3) years, the first two (2) in an easily accessible manner. Correspondence should be filed by customer, then chronologically.

Continuing Education

The Compliance web site contains a training module that must be completed by all registered employees. Employees will be directed to this site to review materials. The Continuing Education Trainer will monitor employees' use of the site and make certain all employees complete the training.

The Continuing Education Trainer will also include training in the new employee seminars.

The Continuing Education Trainer will also include training in the annual compliance meeting.

All records documenting how and when employees were educated and trained will be kept by the Continuing Education Trainer. It will also be this person's responsibility to update training and materials as policies and procedures are changed.

Compliance Responsibilities

The Compliance department will monitor the implementation of, and compliance with, the above procedures. Initially this will be done at implementation and then quarterly for the first year. Thereafter, on a yearly basis, the Compliance department will perform an in-depth review and re-evaluate the effectiveness of the firm's procedures and consider any necessary revisions. This review will be performed by the person/persons assigned to the review.

Audit Responsibilities

The Audit department will review these procedures and files during its yearly audit cycle to determine if the files are being properly kept and to evaluate the effectiveness of these procedures. This audit will be performed by the person/persons assigned to the audit.

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Due Diligence Procedures Policy

Effective Date: April 1, 1996
Owner: Global Equities Compliance
Approver: Mary Owen

Policy Statement

Applicability: Investment Banking

Underwriters are subject to liability for any material misstatements or omissions set forth in a prospectus or private placement memorandum that may be used in connection with an offering of securities. Underwriters may avail themselves of a "due diligence" defense against such liability, but only if the underwriters conduct a thorough investigation of the issuer.

The "reasonable investigation" described in Section 11 of the Securities Act is known as a "due diligence" investigation. Because of its importance in defending the parties to an offering (other than the issuer) from liability, the due diligence investigation is one of the fundamental steps in the preparation of an offering. A due diligence investigation may be carried out in different ways depending on the type of transaction, but the basic principles remain the same.

The investigation is conducted by the lead underwriter or underwriters on behalf of the underwriting syndicate, by the underwriters' counsel, as the underwriters' agent, and by the issuer's counsel, as its directors' agent. There are no statutory guidelines regarding the conduct of a due diligence investigation; however, a practice has developed based on U.S. court decisions to follow certain routine procedures. In the course of the investigation, the parties involved will meet with the issuer's senior management and may visit the issuer's main sites. The drafting sessions where the prospectus is discussed and revised by representatives of all parties are often used as a forum for discussion of substantive disclosure issues with appropriate company representatives. Underwriters' counsel will conduct a "corporate check", which involves a careful examination of the issuer's material contracts, relations with government authorities, reports from auditors and other experts, indebtedness and other major commitments, legal proceedings and minutes of meetings of shareholders, the board of directors and key committees. A corporate check will also usually be conducted on any material subsidiary of the issuer.

The underwriters normally receive additional support for their due diligence defense through letters provided by counsel and accountants. Counsel for both the issuer and the underwriters will normally be required to deliver an opinion to the underwriters stating that their investigation has not revealed by material misstatements or omissions in the registration statement. As discussed below accountants will be expected to provide "comfort letters" regarding financial information contained in the prospectus or offering memorandum.

Consistent with the above, this Firm considers the performance of due diligence in connection with an offering of securities to be one of the most important duties of an investment banker.

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General Considerations

In performing the due diligence review, reliance on the representations of management does not satisfy the obligations imposed upon an underwriter to independently investigate the statements to be made and manner of disclosure under the registration statement, prospectus or offering circular. In a sense, the investment banker must assume the role of devil's advocate in testing the adequacy of disclosure under such documents through independent verifications. This is a matter that calls for discretion and tact in dealing with issuer's management.

In preparing offering documents, the investment banker should be concerned not only with factors presently affecting the issuer, but also those which may arise in the future. Thus, in performing due diligence, the investment banker must determine those material events which may be detrimental to the issuer in the future, and where appropriate, ensure disclosure of such potential problems in the prospectus.

Particular care should be exercised by the investment banker in connection with the preparation of registration statements which incorporate by way of reference the issuer's Report on Form 10-K, most recent prospectus, or other filings under the Exchange Act (e.g., Form S-16 registration statements). It is essential for the investment banker to review the documents incorporated by reference and to question management in an effort to ascertain the accuracy of such documents.

No amount of due diligence can assure an accurate registration statement if the issuer's management does not intend to make full and fair disclosure. If in the course of preparing or reviewing the offering documents, the investment banker perceives an unwillingness on the part of issuer's management or the managing firm to make full disclosure or participate in the disclosure process in an open and forthright manner, this matter should be brought to the immediate attention of the senior banker assigned to the deal and underwriter's counsel. If appropriate, consideration should be given to termination of the investment banking relationship.

Suggested Steps to be Taken in Connection with Due Diligence Review

It is difficult to define in advance with respect to any particular issuer the scope and depth of the investigation that will satisfy the statutory standard of due diligence. The time and effort required to perform due diligence will depend on the issuer and the investment banker's relationship with the issuer. For example, the level of due diligence required in connection with a common stock offering for a new high risk venture is particularly high. On the other hand, the level of due diligence may be less in an offering of investment grade bonds for an established, publicly reporting investment banking client that the Corporate Finance Division has worked with closely on many financings. In most cases the amount of due diligence that must be exercised will fall somewhere between the two extremes.

No comprehensive checklist can be derived which will cover the due diligence review steps which must be taken in all situations. Moreover, checklists can be dangerous in that they may detract from the essential due diligence function which is to understand fully the business of the issuer, identify the problems it faces now and in the future, and assure that disclosure is complete and accurate.

The following, therefore, are suggested steps which should be considered in each situation, although the extent of the investigation may vary as discussed above.

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- *Review of Industry*

While the first draft of the registration statement is being prepared by the issuer and its counsel, the investment banker should become as familiar as possible with the industry in which the issuer operates. This may require a study of prospectuses, Form 10-Ks or annual reports issued by other corporations in the industry. In some cases, the banker may wish to review trade publications or textbooks on the industry. Research reports on the industry and major corporations in the industry should be reviewed, including those prepared by firms other than DBSI.

If an industry is subject to a particular system of regulation (e.g., the banking industry or airline industry), the investment banker with assistance of counsel should become familiar with the applicable regulatory framework as well as any recent developments.

The investment banker should make a study of the accounting practices followed by the industry. If available, the investment banker may review AICPA Industry Audit Guides or Statements of Auditing Standards, AICPA Accounting Research Studies, or FASB Statements and Interpretations applicable to the industry.

For additional background, the investment banker may consult the appropriate Research Department analyst in seeking current information and an evaluation of the overall prospects of the industry. However, if the investment banker is privy to inside information concerning the company no research analyst may be contacted without the prior approval of the Firm Counsel and the Compliance Director. For further information regarding the Chinese Walls Policy

In rare cases, it may be advisable to obtain the evaluation of an independent consultant. For example, if the corporation's principal product is a newly developed high technology device, it may be advisable to retain a consultant who can advise on the technology and feasibility of the product and its potential market. The banker should consult with the senior banker assigned to the deal in considering whether to hire an independent consultant.

- *Preliminary Review of Basic Documents*

Immediately after deciding to proceed with a financing, the issuer should be asked to furnish certain basic documents to the DBSI and its counsel. These would include all documents and financial statements filed by the corporation with the SEC since its organization or during its past five fiscal years, whichever is less, and all reports and other communications sent by the issuer to its security holders during the same period. Documents filed with the SEC include reports on Form 10-K, Form 8-K and Form 10-Q, registration statements relating to the sale of securities, and any proxy statements for annual meetings or for acquisitions or other major transactions. Documents sent to shareholders would include the corporation's annual reports, its quarterly reports, any follow-up reports on its annual meeting, and shareholder letters and press releases. In reviewing annual and quarterly reports, particular attention should be directed to the company president's letter to shareholders which will often provide insight into any major problems faced by the corporation during the past five years.

In addition, the banker should study any investment banking files maintained by the Firm Library relating to previous transactions with the issuer. The Firm Library may also have a file containing news

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clippings, press releases and other public documents relating to the company. Finally, the banker should obtain and review all indentures and loan agreements to which the corporation or a subsidiary is a party, primarily for the purpose of evaluating any restrictive covenants and analyzing the impact which they may have upon the corporation's operations and the prospective financing.

- *Preliminary Analysis and List of Questions*

After completing a study of the industry and a review of the corporation's basic documents, the investment banker should, if time permits, prepare a written list or outline of questions to be asked of management, areas to be explored in greater depth, and any other matters deemed pertinent.

- *Visits to Principal Facilities*

The extent to which an issuer's facilities should be inspected will depend upon relevant facts and circumstances. For example, if the issuer is a bank holding company, a finance company or an insurance company, a visit to corporate headquarters to work on the registration statement should be sufficient. On the other hand, in the case of a manufacturing enterprise, it is advisable to visit one or more of the corporation's principal plants. In the case of a retail chain, representative stores should be inspected. If it is an extractive enterprise, the areas where the principal portion of its mineral reserves are located should be reviewed with an independent engineer.

In all cases, a rule of reason should be applied with the goal of achieving a better understanding of the issuer's business and manner of operation.

- *Meetings with Principal Officers and Heads of Business Units*

After receiving and reviewing the first draft of the registration statement prepared by the issuer, individual meetings should be held with those officers responsible for various aspects of each of the corporation's business, such as production, engineering, construction, sales and services, regulation and governmental matters, employee relations, accounting and finance, legal and any other matters considered appropriate. The issuer's financial statements, including all footnotes thereto, should be reviewed and discussed with the issuer's financial personnel and with the issuer's public accountants. The intended use of proceeds of the offering should be reviewed and discussed with issuer's management. In addition, the reason for any change in auditors by the issuer within the preceding five years should be noted. The thrust of these interviews should be to obtain a deeper understanding of the corporation's business and prospects and particularly any problems what it may face in the future. The list of questions referred to above may be very helpful in conducting such interviews. It is often appropriate to pose the same questions to different corporate officials at various areas of the company. It is important to have at least one meeting with the corporation's chief executive officer and the heads of each of the corporation's business units to review the broad aspects of the corporation's business and to obtain his personal assessment of the strengths or weaknesses of the company.

It is generally customary to hold a "due diligence meeting" to which all members of the underwriting syndicate are invited. At this meeting, which is usually held shortly after the filing of the registration statement, representatives of all other underwriters are afforded the opportunity to question the

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corporation's management as to matters covered by the registration statement. In lieu of an actual meeting, representatives of the underwriters are sometimes afforded the opportunity to question the corporation's management via the telephone at a time notified to the representatives via a telex.

The due diligence meeting is of increased significance when the Firm is a participant in an offering and has not previously worked with the issuer and manager in drafting the registration statement. Prior to the due diligence meeting, the investment banker should critically review the registration statement. At the due diligence meeting, the banker should take the opportunity to discuss with management matters covered in the registration statement and raise questions based on the banker's overall review of the company. In addition, the banker should focus on new questions which may have arisen in reviewing any comments received from the SEC.

- *Financial Due Diligence with Company Officers and Independent Auditors*

In addition to meetings with the company's principal officers and head of business units, meetings should be held with the company's chief financial officer, treasurer and such other persons responsible for preparing the issuer's financial statements, including all footnotes thereto. The investment bankers should review the issuer's financial statements. Questions regarding such financial statements should be directed to both the company's financial personnel as well as its independent auditors.

- *Legal Review*

Counsel for the underwriters should conduct a legal review of the corporation to enable them to render the opinions required by the Underwriting Agreement. (For further information regarding Underwriting Agreements, see subsection (k) below). The legal review will include a study of the certificate of incorporation and by-laws, indentures, loan agreements and other debt instruments (which, as stated under subsection (b) above, should also be reviewed by the investment banker), and minutes of meetings of the corporation's shareholders, board of directors and executive committee for the past five years, as well as such minutes for each of the corporation's major subsidiaries.

In addition, counsel for the underwriters should review information provided by company counsel with respect to any material lawsuits or administrative proceedings furnished in response to the last auditor's inquiry or filed during the subsequent time period. In some instances, it may be appropriate for underwriter's counsel to meet with company counsel to discuss any material litigation facing the company. The purpose of such investigation is to determine which litigation is sufficiently material for inclusion in the registration statement and, in turn, confirm that an adequate description of such litigation has been provided.

Finally, counsel should review stock option plans and pension and profit sharing plans, employment contracts, leases, license agreements and supply and sales agreements, to the extent material, and other documents described in or filed as exhibits to the registration statement or described in the notes to the financial statements.

- *Review of Other Material Documents*

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In the course of working on the registration statement at the corporation's headquarters, time should be allocated for study of documents not previously furnished to the managing underwriters, including those of a confidential nature which the corporation would prefer not be taken from its offices. These would include such documents as five-year plans, financial forecasts, budgets, periodic reports by operating units to senior management or the board of directors, letters of comment received by the corporation in connection with prior registration statements, and at least the most recent management letter prepared by the accountants in connection with their audit.

- *Officers and Directors Questionnaire*

A registration statement on Form S-1 must include information on the corporation's officers and directors, their remuneration and employee benefits, and material transactions which they have had with the corporation. It is standard procedure for corporate counsel to prepare an Officers' and Directors' Questionnaire addressed to these disclosure requirements in connection with the preparation of the Form S-1 registration statement. Counsel for the underwriters should review the completed Questionnaires and compare them with the disclosure in the registration statement.

- *Review of Registration Statement.*

After receiving the first draft of the registration statement, the investment banker and underwriters' counsel should review it carefully for content. Such review should include a comparison of items included in the registration statement against the requirements of the applicable Form and Regulation S-K (to the extent incorporated into the appropriate Form) and the SEC's Guidelines for Preparation and Filing of Registration Statements. For a more detailed discussion of disclosure guidelines, see Disclosure Obligations and Due Diligence Guidelines Policy. The investment banker should note any questions or suggestions for improved disclosure.

The investment banker and underwriter's counsel should then meet with those officers of the corporation responsible for the registration statement, issuer's counsel, and a representative of issuer's certified public accounting firm for the purpose of reviewing the registration statement on a line-by-line basis. In the course of the review process, the disclosures in the registration statement will be discussed in depth and invariably the registration statement will be revised in an effort to improve upon the disclosure. This probing analysis conducted by the investment banker with the assistance of issuer's management is one of the most effective means for performing due diligence and assuring full and accurate disclosure. During the course of the review, officers who were previously interviewed may be again called upon to sit down with the investment bankers to concentrate on particular points discussed in the registration statement.

Once a revised proof of the registration statement is available, it should be distributed to all directors and key officers. The investment banker should satisfy himself that the corporation has established adequate procedures for collecting and evaluating comments on the document made by those persons to whom it has been furnished.

- **Negotiation of Underwriting Agreement**

The Underwriting Agreement sets forth the agreement between the issuer and the underwriters with regard to the offering. The Underwriting Agreement contains representations and warranties of the issuer and, if

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applicable, any selling shareholders, the terms of the underwriters' obligation to purchase the securities and the conditions thereto (including the comfort letter, legal opinions and a "market out" provision), and the issuer's (and, if applicable) selling shareholders' indemnity of the underwriters for any false or misleading statements made in the prospectus. Counsel for the underwriters will be responsible for drafting and negotiating the Underwriting Agreement.

The process of negotiating the representations and warranties in the Underwriting Agreement (and Comfort Letter) should be taken as a further opportunity for performing due diligence. As management focuses upon the representations requested by the underwriters, problems may be called to mind that should be discussed in detail and possibly disclosed in the registration statement.

- *Negotiation of Comfort Letter*

In connection with the underwriters' due diligence investigation, the issuer's independent auditors will deliver a "comfort" letter covering the financial information contained in the prospectus or offering memorandum. The comfort letter will provide that the auditors are independent under the Securities Act, that the financial statements comply as to form with the rules and regulations under the Securities Act and the Exchange Act and have been prepared in accordance with GAAP, that any pro forma financial information has been calculated in accordance with GAAP, and that nothing has come to the independent auditor's attention that would lead them to believe such financial information was false or misleading. Counsel for the underwriters will have the primary responsibility for negotiating the comfort letter with the issuer's independent auditors. The comfort letter is an essential component of the underwriters' due diligence investigation.

- *Documentation and Record Retention*

After the completion of the transaction, with several exceptions, all personal notes, drafts of the registration statement and other transaction documentation and internal memoranda should be discarded. Retention of such materials creates the possibility that it could be discovered in an ensuing litigation. The only materials that should be retained after closing of the transaction are copies of any documents filed with the SEC and copies of documents received from the company. It is critical that no personal notes or files be retained after the completion of the financing. Where the investment banker believes that another transaction involving the company will occur in the near future (e.g., in the case of a shelf-registration statement), the investment banker may, with the express permission of the managing director in charge of the transaction, retain a short "issues" list. Such list should contain no more detail than is necessary to enable the investment banker to recall the issue at a later time.

Associated Policies

DBA Compliance Operating Standard

Authoritative Guidance

U S Securities and Exchange Commission

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**Free Riding and Withholding Policy**

Effective Date: April 1, 1996
Owner: Global Equities Compliance
Approver: Mary Owen

Policy Statement**Applicability: Syndicate**

In accordance with the NASD Free-Riding and Withholding Rules, DBSI must make a bona fide public distribution, at the public price offering, of securities of a public offering which, immediately after the distribution process begins, sell at a premium in the secondary market (hot issues). That rule has been interpreted as follow.

The NASD rule prohibits DBSI to withhold hot issues for itself and, with certain limited exceptions, restricts the sale of hot issues to: personnel of the firm, personnel of other broker-dealers, certain persons who act in a fiduciary capacity to the managing underwriters, the finder of the issue, certain categories of persons associated with institutional investors, and the immediate families of any of the foregoing. Even where such a sale is permitted, the basic limitations still apply, the limitations being: that the sales must be in accordance with the customer's investment history with DBSI; that the sales of any one customer are insubstantial, and that the total amount of securities sold to all such customers must be insubstantial and not disproportionate to the public offering.

Sales to other broker-dealers at or above the market price are prohibited except for sales at the offering price where the buying broker-dealers gives DBSI a written assurance that he is selling to bona fide public customers who are not restricted under the rule.

Sales of hot issues to either domestic banks, domestic branches of foreign financial institution, or other conduits for undisclosed principals are prohibited unless they are effected in such a manner as to assure that the securities are not being sold, or will not be distributed, to individuals in violation of the rule. Accordingly, an inquiry must be made of the bank, branch, or conduit as to whether the ultimate purchaser is a restricted person.

Credit Transactions

A broker-dealer may neither extend, maintain, or arrange for credit in respect of a "new issue" until thirty days have elapsed from the last sale of any part of the new issue.

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Associated Policies

DBA Compliance Operating Standard

Authoritative Guidance

National Association of Securities Dealers Regulations

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General Overview of the Offering Process Policy

Effective Date: April 1, 1996
Owner: Global Equities Compliance
Approver: Mary Owen

Policy Statement

Applicability: Syndicate

The Securities Act regulates the public offering of securities through requirements intended to promote full and fair disclosure necessary for the investor to make an informed investment decision.

Disclosure is made through a registration statement which is filed with the SEC by the issuer. The registration statement contains a prospectus that contains most of the information included in the registration statement and which is distributed to potential investors. Pursuant to Section 5 of the Securities Act, a registration statement must be filed with the SEC before any securities may be offered to the public and must be declared effective by the SEC before any sale or delivery of the securities can occur. In addition, the securities may not be delivered unless accompanied or preceded by a prospectus which satisfies the requirements of the Securities Act.

The registration process may take a few days or many months depending on whether the issuer is already in the SEC disclosure system, the type of issuer, the characteristics of the security and the offering and the extent of problems encountered in drafting the registration statement and preparing the requisite financial statements. Offerings for different types of issuers, such as banks, oil and gas companies and governmental issuers, and different types of issues, such as shelf registration issues and multijurisdictional issues, may pose particular problems of disclosure or registration procedure.

The fundamental principle underlying the Securities Act is that all offers and sales of securities in the United States require Securities Act registration unless an exemption is available. The Securities Act contains various exemptions from the registration and prospectus delivery requirements, but the sale of securities exempted from registration is still subject to the anti-fraud provisions of the securities laws.

The terms "sale" and "security" used in the Securities Act possess definitions which may not be intuitively obvious. These terms have been broadly defined in the Securities Act and have been expansively interpreted by the SEC and the U.S. courts in order to further the objective of investor protection.

The preparation of a registration statement or a private placement memorandum commences as soon as a decision is reached to conduct a public or private offering. The preparation of the prospectus contained in a registration statement or a private placement memorandum involves gathering information, both financial and non-financial, concerning the company and its operating environment. In certain cases, particularly where financial information is concerned, information gathering may take a considerable amount of time. If a company is already registered, preparation time will be much less because such information will already have been gathered and disclosed previously.

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Drafting a prospectus or a private placement memorandum involves balancing the requirements of marketing the company's securities and ensuring that the information furnished to the SEC and to the markets is full and fair. For many companies, the SEC registration statement will also constitute the most comprehensive disclosure document about the company. Hence, the company's presentation of itself and its strategic position in its prospectus will be important to its home securities markets and to its other constituencies, such as employees, customers and competitors. Certain parts of the prospectus are relatively straightforward due to their technical nature, such as the description of the securities and of the offering. Others are by their nature more judgmental, particularly the management's analysis of the company's financial condition and results of operations, including its analysis of any trends affecting the company's business. Projections and forecasts showing positive trends in a company's business are typically not disclosed, while projections and forecasts showing materially negative results must be described in the prospectus.

It is also necessary to prepare, as appropriate, underwriting agreements with the lead managing bank or banks, documents for a stock exchange listing or admission into the Nasdaq system, the terms of the security, an indenture covering debt securities, and exhibits to the registration statement. For offerings by a foreign issuer, a deposit agreement may also need to be negotiated and filed with the SEC.

The lead underwriters and their counsel must be kept informed by the company of any planned acquisitions, financings or other material events which may have to be described in the registration statement. If disclosure of such matters cannot be made for business reasons, non-disclosure may necessitate delaying the registration.

The U.S. securities laws impose significant restrictions on the public communications of a company during the period in which the securities are considered to be "in registration". This period which commences when the company reaches an understanding with the lead underwriter to prepare for an offering of its securities and, for a first-time registrant, continues until at least 25 days after the registration statement is declared effective by the SEC. The restrictions differ depending on whether or not a registration statement for the securities has been filed. A violation of these restrictions can result in the SEC delaying effectiveness of the registration statement for periods ranging from several days to several months to allow for a "cooling off" period for the impact of any violation to wane. The purpose of these restrictions is to ensure that the offering is made only by the prospectus.

In connection with a private placement of securities or securities sold in reliance on Rule 144A (sales to qualified institutional investors) or Regulation S (sales outside the United States), any publicity about the offering prior to the closing of the offering could render such exemptions from registration unavailable, thereby causing any such sales to be in violation of Section 5 of the Securities Act.

Associated Policies

DBA Compliance Operating Standard

Authoritative Guidance

U S Securities and Exchange Commission

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