

## Endnotes

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- <sup>1</sup> *SEC v. Brightpoint, Inc., American International Group, Inc., Phillip Bounsall, John Delaney, and Timothy Harcharick*, Release No. AAER-1858 (Sept. 11, 2003); *In the Matter of Brightpoint, Inc.*, Release No. AAER-1854 (Sept. 11, 2003); *In the Matter of Phillip Bounsall*, Release No. AAER-1855 (Sept. 11, 2003); *In the Matter of Louis Lucullo*, Release No. AAER-1856 (Sept. 11, 2003); *In the Matter of American International Group, Inc.*, Release No. AAER-1857 (Sept. 11, 2003).
- <sup>2</sup> *SEC v. J.P. Morgan Chase & Co.*, Release No. AAER-1820 (July 28, 2003).
- <sup>3</sup> *In the Matter of Citigroup, Inc.*, Release No. AAER-1821 (July 28, 2003).
- <sup>4</sup> *SEC v. Henry Yuen and Elsie M. Leung*, Release No. AAER-1805 (June 20, 2003).
- <sup>5</sup> *SEC v. Paul A. Allaire, et al.*, Release No. AAER-1796 (June 5, 2003).
- <sup>6</sup> *SEC v. Kevin A. Howard, et al.*, Release No. AAER-1771 (May 1, 2003); *SEC v. Kevin A. Howard, et al.*, Release No. AAER-1738 (Mar. 12, 2003).
- <sup>7</sup> *In the Matter of HealthSouth Corporation, et al.*, Release No. AAER-1744 (Mar. 20, 2003); *SEC v. William T. Owens, et al.*, Release No. AAER-1750 (Apr. 1, 2003); *SEC v. Kenneth K. Livesay*, Release No. AAER-1752 (Apr. 4, 2003).
- <sup>8</sup> *SEC v. Merrill Lynch & Co., Inc., et al.*, Release No. AAER-1742 (Mar. 17, 2003).
- <sup>9</sup> *SEC v. Joel M. Arnold, et al.*, Release No. AAER-1726 (Feb. 25, 2003).
- <sup>10</sup> *SEC v. Andrew S. Fastow*, Release No. AAER-1640 (Oct. 2, 2002).
- <sup>11</sup> *In the Matter of Thomas C. Trauger and Michael Mullen*, AAER-1872 (Sept. 25, 2003); *In the Matter of Oliver Flanagan, Chartered Accountant* (Sept. 25, 2003).

- <sup>12</sup> *In the Matter of PricewaterhouseCoopers LLP*, Release No. AAER-1787 (May 22, 2003).
- <sup>13</sup> *SEC v. Kenneth Wichfort, et al.*, Release No. LR-18102 (Apr. 23, 2003).
- <sup>14</sup> *SEC v. KPMG LLP, et al.*, Release No. AAER-1709 (Jan. 29, 2003).
- <sup>15</sup> *In the Matter of American Rice Inc., et al.*, Release No. AAER-1710 (Jan. 30, 2003).
- <sup>16</sup> *SEC v. Syncor International Corp.*, Release No. AAER-1688 (Dec. 10, 2002).
- <sup>17</sup> *In the Matter of Raytheon Company, et al.*, Release No. 34-46897 (Nov. 25, 2002); *In the Matter of Secure Computing Corporation, et al.*, Release No. 34-46895 (Nov. 25, 2002); *In the Matter of Siebel Systems, Inc.*, Release No. 34-46896 (Nov. 25, 2002); *Report of Investigation in the Matter of Motorola, Inc.*, Release No. 34-46898 (Nov. 25, 2002).
- <sup>18</sup> *SEC v. Bear, Stearns & Co., Inc.*, Release No. LR-18109 (Apr. 28, 2003); *SEC v. Credit Suisse First Boston LLC*, Release No. LR-18110 (Apr. 28, 2003); *SEC v. Citigroup Global Markets, Inc.*, Release No. LR-18111 (Apr. 28, 2003); *SEC v. UBS Warburg LLC*, Release No. LR-18112 (Apr. 28, 2003); *SEC v. Goldman, Sachs & Co.*, Release No. LR-18113 (Apr. 28, 2003); *SEC v. J.P. Morgan Securities, Inc.*, Release No. LR-18114 (Apr. 28, 2003); *SEC v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, Release No. LR-18115 (Apr. 28, 2003); *SEC v. Lehman Brothers, Inc.*, Release No. LR-18116 (Apr. 28, 2003); *SEC v. Morgan Stanley & Co., Inc.*, Release No. LR-18117 (Apr. 28, 2003); *SEC v. U.S. Bancorp Piper Jaffray, Inc.*, Release No. LR-18118 (Apr. 28, 2003).
- <sup>19</sup> *In the Matter of Robertson Stephens, Inc.*, Release No. LR-17923 (Jan. 9, 2003)
- <sup>20</sup> *In the Matter of Deutsche Bank Securities, Inc.*, Release No. 34-46937 (Dec. 3, 2002).
- <sup>21</sup> *In the Matter of Prudential Securities, Inc.*, Release No. 34-48149 (July 10, 2003); *In the Matter of Robert Ostrowski, et al.*, Release No. 34-48150 (July 10, 2003).
- <sup>22</sup> *In the Matter of Theodore Charles Sihpol, III*, Release No. 34-48493 (Sept. 16, 2003).
- <sup>23</sup> *SEC v. Peter J. Davis, Jr., John M. Youngdahl, and Steven E. Northern*, Release No. LR-18322 (Sept. 4, 2003); *In the Matter of Massachusetts Financial Company*, Release No. IA-2165 (Sept. 4, 2003); *In the Matter of Goldman, Sachs & Co.*, Release No. 34-48436 (Sept. 4, 2003).
- <sup>24</sup> *SEC v. Martha Stewart, et al.*, Release No. LR-18169 (June 4, 2003).
- <sup>25</sup> *SEC v. Vivendi Universal*, Release No. LR-18352 (Sept. 16, 2003).
- <sup>26</sup> *In the Matter of Corrpro*, Release No. LR-18382 (Oct. 1, 2003).
- <sup>27</sup> *SEC v. Beacon Hill Asset Management LLC*, Release No. LR-17841 (Nov. 15, 2002).
- <sup>28</sup> Release No. 34-47384 (Feb. 20, 2003), 68 FR 9482 (Feb. 27, 2003).
- <sup>29</sup> Release No. 34-48252 (July 29, 2003), 68 FR 45875 (Aug. 4, 2003).
- <sup>30</sup> Release No. 34-48108 (June 30, 2003), 68 FR 39995 (July 3, 2003).

- <sup>31</sup> Release No. 34-47364 (Feb. 13, 2003), 68 FR 8686 (Feb. 24, 2003).
- <sup>32</sup> See <<http://www.sec.gov/news/press/2003-147.htm>>.
- <sup>33</sup> Release No. 33-8236 (June 4, 2003), available on the SEC website at <http://www.sec.gov/rules/concept/33-8236.htm>.
- <sup>34</sup> Release No. 34-47384 (Feb. 20, 2003), 68 FR 9482 (Feb. 27, 2003).
- <sup>35</sup> Release No. 34-48252 (July 29, 2003), 68 FR 45875 (Aug. 4, 2003).
- <sup>36</sup> Release No. 34-48545 (Sept. 25, 2003), 68 FR 56656 (Oct. 1, 2003).
- <sup>37</sup> Release No. 34-47638 (Apr. 7, 2003), 68 FR 17809 (Apr. 11, 2003).
- <sup>38</sup> Release No. 34-47231 (Jan. 22, 2003), 68 FR 4258 (Jan. 28, 2003).
- <sup>39</sup> See letter from Robert L.D. Colby, Deputy Director, Division of Market Regulation, to Michael Ryan, Executive Vice President, Amex; Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE; Kathryn Beck, Senior Vice President, General Counsel and Corporate Secretary, PCX; and Lanny Schwartz, Executive Vice President and General Counsel, Phlx, dated May 30, 2003. See also Release Nos. 34-43086 (July 28, 2000), 65 FR 48023 (Aug. 4, 2000) (order approving the Linkage Plan submitted by Amex, CBOE and ISE); 34-43574 (Nov. 16, 2000), 65 FR 70850 (Nov. 28, 2000) (order approving the PCX as participant in the Options Intermarket Linkage Plan); and 34-43573 (Nov. 16, 2000), 65 FR 70851 (Nov. 28, 2000) (order approving the Phlx as a participant in the Options Intermarket Linkage Plan).
- <sup>40</sup> Release No. 34-47959 (May 30, 2003), 68 FR 34441 (June 9, 2003).
- <sup>41</sup> Release No. 34-47838 (May 13, 2003), 68 FR 27129 (May 19, 2003).
- <sup>42</sup> Release No. 34-47614 (Apr. 2, 2003), 68 FR 17140 (Apr. 8, 2003).
- <sup>43</sup> Release No. 34-48390 (Aug. 21, 2003), 68 FR 51613 (Aug. 27, 2003).
- <sup>44</sup> Release Nos. 34-46792 (Nov. 8, 2002), 67 FR 69273 (Nov. 15, 2002) (SR-CME-2002-01); 46774 (Nov. 5, 2002), 67 FR 68895 (Nov. 13, 2002) (SR-NQLX-2002-02); and 46787 (Nov. 7, 2002), 67 FR 69059 (Nov. 14, 2002) (SR-OC-2002-01).
- <sup>45</sup> Letter regarding the Nasdaq Stock Market, Inc. (pub. avail. Sept. 26, 2003).
- <sup>46</sup> Letter regarding Goldman, Sachs & Co. (pub. avail. Aug. 14, 2003).
- <sup>47</sup> See <<http://www.FATF-GAFI.org>>.
- <sup>48</sup> See, e.g., Release No. 34-47752 (Apr. 29, 2003), 68 FR 25113 (May 9, 2003); 68 FR 23646 (May 5, 2003); 68 FR 23653 (May 5, 2003); and 67 FR 78383 (Dec. 24, 2002).
- <sup>49</sup> Release No. 34-47752 (May 9, 2003), 68 FR 25113 (May 9, 2003).
- <sup>50</sup> 537 U.S. 29 (2002).
- <sup>51</sup> *Mayo v. Dean Witter Reynolds, Inc.*, 258 F.Supp.2d 1097 (N.D. Cal. 2003); *NASD Dispute Resolution, Inc. v. Judicial Council of California*, 232 F.Supp.2d 1055 (N.D. Cal. 2002).
- <sup>52</sup> Release Nos. 34-46881 (Nov. 21, 2002), 67 FR 71224 (Nov. 29,

2002); 34-46816 (Nov. 12, 2002), 67 FR 69793 (Nov. 19, 2002); 34-46562 (Sept. 26, 2002), 67 FR 62085 (Oct. 3, 2002); 34-47872 (May 15, 2003), 68 FR 28869 (May 27, 2003); 34-48351 (Aug. 15, 2003), 68 FR 50822 (Aug. 22, 2003); 34-48711 (Oct. 29, 2003), 68 FR 62490 (Nov. 4, 2003); 34-47734 (Apr. 24, 2003), 68 FR 23351 (May 1, 2003); 34-48553 (Sept. 26, 2003), 68 FR 57494 (Oct. 3, 2003); and 34-48187 (July 16, 2003), 68 FR 43553 (July 23, 2003).

<sup>53</sup> See “Report on the Role and Function of Credit Rating Agencies in the Operation of the Securities Markets, as required by Section 702(b) of the Sarbanes-Oxley Act of 2002, U.S. Securities and Exchange Commission” (January 2003), located at <http://www.sec.gov/news/studies/credratingreport0103.pdf>.

<sup>54</sup> Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, §702(b), 116 Stat. 745 (2002).

<sup>55</sup> “The Current Role and Function of Credit Rating Agencies in the Operation of the Securities Markets, Hearings Before the U.S. Securities and Exchange Commission” (Nov. 15 and 21, 2002). Full hearing transcripts are available on the SEC website at <http://www.sec.gov/spotlight/ratingagency.htm>.

<sup>56</sup> Release No. 33-8236 (June 4, 2003), 68 FR 35258 (June 12, 2003).

<sup>57</sup> Letter from Annette L. Nazareth, Director, Division of Market Regulation, to Mari-Anne Pisarri, Pickard and Djinis LLP, regarding Dominion Bond Service Rating Limited (pub. avail. February 24, 2003).

<sup>58</sup> Release No. 34-48272 (Aug. 1, 2003), 68 FR 46446 (Aug. 6, 2003).

<sup>59</sup> Letter from Michael A. Macchiaroli, Associate Director, Division of Market Regulation, to Elaine Michitsch, Member Firm Regulation, New York Stock Exchange, Inc. and Susan Demando, Director, Financial Operations, NASD Regulation, Inc. (pub. avail. July 11, 2003).

<sup>60</sup> Release No. 34-47480 (Mar. 11, 2003), 68 FR 12780 (Mar. 17, 2003).

<sup>61</sup> Release No. 47683 (Apr. 16, 2003), 68 FR 19864 (Apr. 22, 2003).

<sup>62</sup> Release No. 34-47480 (Mar. 11, 2003), 68 FR 12780 (Mar. 17, 2003).

<sup>63</sup> Release No. 34-47910 (May 22, 2003), 68 FR 32308 (May 29, 2003).

<sup>64</sup> Release No. 34-44992 (Oct. 26, 2001), 66 FR 55818 (Nov. 2, 2001).

<sup>65</sup> Release No. 34-47806 (May 7, 2003), 68 FR 25281 (May 12, 2003).

<sup>66</sup> Release No. IC-25914 (Jan. 27, 2003), 68 FR 5348 (Feb. 3, 2003).

<sup>67</sup> Release No. IC-25915 (Jan. 28, 2003), 68 FR 6006 (Feb. 5, 2003).

<sup>68</sup> Release No. IC-26001 (Apr. 9, 2003), 68 FR 18788 (Apr. 16, 2003).

<sup>69</sup> Release No. IC-25914 (Jan. 27, 2003), 68 FR 5348 (Feb. 3, 2003).

<sup>70</sup> *Id.*

<sup>71</sup> Release No. IC-25922 (Jan. 31, 2003), 68 FR 6564 (Feb. 7, 2003).

<sup>72</sup> Release No. IC-26195 (Sept. 29, 2003), 68 FR 57760 (Oct. 6, 2003).

<sup>73</sup> Release No. IC-26031 (Apr. 29, 2003), 68 FR 25131 (May 9, 2003).

- <sup>74</sup> Release No. IC-25888 (Jan. 14, 2003), 68 FR 3142 (Jan. 22, 2003).
- <sup>75</sup> Release Nos. IC-25835 (Nov. 26, 2002), 67 FR 71915 (Dec. 3, 2003) (proposed rule) and IC-26077 (June 16, 2003), 68 FR 37046 (June 20, 2003) (final rule).
- <sup>76</sup> Release No. IC-25925 (Feb. 5, 2003), 68 FR 7038 (Feb. 11, 2003).
- <sup>77</sup> Release No. IC-25870 (Dec. 18, 2002), 68 FR 160 (Jan. 2, 2003).
- <sup>78</sup> Societe Generale, *et al.*, Release Nos. IC-26063 (May 29, 2003) (notice) and IC-26081 (June 24, 2003) (order); Merrill Lynch Principal Protected Trust, *et al.*, Release Nos. IC-26164 (Aug. 20, 2003) (notice) and IC-26180 (Sept. 16, 2003) (order).
- <sup>79</sup> UBS Global Asset Management (US) Inc., *et al.*, Release Nos. IC-25738 (Sept. 18, 2002) (notice) and IC-25767 (Oct. 11, 2002) (order); BLDRS Index Funds Trust, *et al.*, Release Nos. IC-25772 (Oct. 17, 2002) (notice) and IC-25797 (Nov. 8, 2002) (order); Rydex ETF Trust, *et al.*, Release Nos. IC-25948 (Feb. 27, 2003) (notice) and IC-25970 (Mar. 25, 2003) (order); PowerShares Exchange-Traded Fund Trust, *et al.*, Release Nos. IC-25961 (Mar. 4, 2003) (notice) and IC-25985 (Mar. 28, 2003) (order); Fidelity Commonwealth Trust, *et al.*, Release Nos. IC-26166 (Aug. 22, 2003) (notice) and IC-26178 (Sept. 12, 2003) (order).
- <sup>80</sup> Barclays Global Fund Advisors, *et al.*, Release Nos. IC-26151 (Aug. 15, 2003) (notice) and IC-26175 (Sept. 8, 2003) (order).
- <sup>81</sup> iShares Trust, *et al.*, Release Nos. IC-25969 (Mar. 21, 2003) (notice) and IC-26006 (Apr. 15, 2003) (order).
- <sup>82</sup> Nicholas-Applegate Capital Management, *et al.*, Release Nos. IC-25876 (Dec. 23, 2002) (notice) and IC-25906 (Jan. 21, 2003) (order).
- <sup>83</sup> The France Growth Fund, Inc. (pub. avail. July 15, 2003).
- <sup>84</sup> Tuition Plan Consortium (pub. avail. Feb. 4, 2003).
- <sup>85</sup> Investment Company Institute (pub. avail. Nov. 13, 2002).
- <sup>86</sup> "Implications of the Growth of Hedge Funds" (Sept. 2003), available at <http://www.sec.gov/news/studies/hedgefunds0903.pdf>.
- <sup>87</sup> Release No. IA-2106 (Jan. 31, 2003), 68 FR 6585 (Feb. 7, 2003).
- <sup>88</sup> Release No. IA-2176 (Sept. 25, 2003), 68 FR 56692 (Oct. 1, 2003).
- <sup>89</sup> Release No. IA-2107 (Feb. 5, 2003), 68 FR 7037 (Feb. 11, 2003) (proposing release).
- <sup>90</sup> Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Investment Advisers (Apr. 28, 2003), 68 FR 23646 (May 5, 2003).
- <sup>91</sup> Dougherty & Company LCC (pub. avail. Mar. 21, 2003 and July 3, 2003).
- <sup>92</sup> Release Nos. 35-27579 (Oct. 17, 2002), 35-27652 (Feb. 21, 2003), 35-27701 (July 23, 2003).
- <sup>93</sup> See Initial Decision Release No. 222 (Feb. 6, 2003).
- <sup>94</sup> Release No. 35-27681 (May 29, 2003).
- <sup>95</sup> Release No. 33-8238 (June 5, 2003), 68 FR 36636 (June 18, 2003).
- <sup>96</sup> Release No. 33-8230 (May 7, 2003), 68 FR 25788 (May 13, 2003).
- <sup>97</sup> Release No. 33-8220 (Apr. 9, 2003), 68 FR 18788 (Apr. 16, 2003).
- <sup>98</sup> Release No. 33-8182 (Jan. 28, 2003), 68 FR 5982 (Feb. 5, 2003).
- <sup>99</sup> Release No. 33-8177 (Jan. 23, 2003), 68 FR 5110 (Jan. 31, 2003).
- <sup>100</sup> Release No. 34-47225 (Jan. 22, 2003), 68 FR 4338 (Jan. 28, 2003).

- <sup>101</sup> Release No. 33-8176 (Jan. 22, 2003), 68 FR 4820 (Jan. 30, 2003).
- <sup>102</sup> Release No. 34-48301 (Aug. 8, 2003), 68 FR 48724 (Aug. 14, 2003).
- <sup>103</sup> Release No. 34-48626 (Oct. 14, 2003), 68 FR 60784 (Oct. 23, 2003).
- <sup>104</sup> Release No. 34-48481 (Sept. 11, 2003), 68 FR 54590 (Sept. 17, 2003).
- <sup>105</sup> Release No. 33-8223 (Apr. 25, 2003), 68 FR 84 (May 1, 2003).
- <sup>106</sup> “Staff Accounting Bulletin No. 103, Update of Codification of Staff Accounting Bulletins” (May 9, 2003).
- <sup>107</sup> “Study Pursuant to Section 108(d) of the Sarbanes-Oxley Act of 2002 on the Adoption by the United States of a Principles-Based Accounting System” (July 31, 2003).
- <sup>108</sup> 123 S. Ct. 1788 (cert. granted April 21, 2003).
- <sup>109</sup> 300 F.3d 1281 (11<sup>th</sup> Cir. 2002).
- <sup>110</sup> 328 U.S. 293 (1946).
- <sup>111</sup> 327 F.3d 1263 (11<sup>th</sup> Cir. 2003).
- <sup>112</sup> No. 03-30227 (5<sup>th</sup> Cir.).
- <sup>113</sup> 318 F.3d 170 (2<sup>d</sup> Cir.).
- <sup>114</sup> No. 02-7680 (2<sup>d</sup> Cir.).
- <sup>115</sup> 333 F.3d 239 (D.C. Cir. 2003).
- <sup>116</sup> No. 01 CIV 2014 (S.D.N.Y.).
- <sup>117</sup> 2003 WL 22474835 (S.D.N.Y. Nov. 3, 2003).
- <sup>118</sup> No. 02-6166 (2<sup>d</sup> Cir.).
- <sup>119</sup> 260 F. Supp. 2d 979 (N.D. Cal. 2003).
- <sup>120</sup> *Credit Suisse First Boston Corp. v. Grunwald*, No. 03-15695 (9<sup>th</sup> Cir.); *Jevne, et al. v. Superior Court (JB Oxford Holdings, Inc., et al.)*, 2d Civ. No. B167044 (LASC Case No. SC 062784)(Cal. App.).
- <sup>121</sup> 537 U.S. 79 (2002).
- <sup>122</sup> No. 02-6158 (6<sup>th</sup> Cir.).