RONALD REAGAN, GOVERNOR, STATE OF CALIFORNIA
ANTHONY R. PIERNO, COMMISSIONER OF CORPORATIONS

Release No. 8-C

SUITABILITY OF SECURITIES

The Rules of the Commissioner of Corporations provide that the sale of securities in California may be authorized pursuant to an "open qualification" or pursuant to a "limited offering qualification." An open qualification authorizes the offer and sale of securities to the public generally, without restrictions as to persons or class of persons (Section 260.001(d), Title 10, California Administrative Code). A limited offering qualification authorizes the offer and sale of securities only to suitable investors designated therein by name or class (Section 260.001(e)).

In appropriate cases the Commissioner, in lieu of including a condition in the permit limiting the offering to suitable investors, will accept a written commitment of the issuer that it will limit the offering to persons who, it has reasonable grounds to believe, are suitable investors and that it will give an instruction to the same effect to the broker-dealer if one is employed to assist in the distribution. Issuers are responsible for strict compliance with the suitability limitations whether imposed in the permit or otherwise committed as above stated.

In appropriate cases the Commissioner may delay decision on the issuance of the definitive permit until after the company has identified the proposed suitable investors. In that event, a negotiating permit will be issued prior to negotiation with such investors without the necessity for a separate application therefor upon payment of the additional fee specified therefor.

Of course, even though distribution of a particular security is authorized by an open qualification, the suitability of the securities to the needs of a particular purchaser still is a matter of concern to the broker-dealer, agent, or investment adviser, who renders professional assistance to the purchaser.

Especially with respect to an investment company whose activities may include short sales, or margin purchases, or buying or selling (though not writing) of puts, calls, straddles or spreads, a qualification may be approved by the Commissioner, provided that the securities of such investment company may be offered only to a limited class of purchasers for whom they constitute a suitable investment (Section 260.140.85). Likewise, qualification of interests in real estate syndications (Section 260.140.114) and oil and gas interests (Section 260.140.122) may be approved by the Commissioner, provided that these interests are to be offered only to suitable investors.

If a qualification has been approved by the Commissioner subject to such suitability limitations, the following guidelines should be observed:

1. Adequate disclosure of the speculative nature of the securities shall be made by a statement prominently displayed on the front page of the prospectus, offering circular, and all other sales literature. Statements which meet SEC requirements will generally be deemed adequate.

2. Sales of such securities shall be limited to the class of persons specifically designated in the qualification. Generally such class is limited to suitable investors who are capable of assessing the risks of speculative investments and who have the financial capability to withstand such risks. Especially, proposed investors in a real

estate syndication or in an oil or gas syndicate should have a financial responsibility measured by annual income and liquid net worth which is suitable to the proposed investment. Where, in a real estate syndication, the mortgage or purchase contract calls for increased payments in later years, the balloon payments should not be beyond the apparent resources of the proposed investors. Proposed investors in an oil and gas syndicate should be in a tax bracket which will permit them to realize a reasonable income tax benefit from the proposed investment whether the program is successful or unsuccessful.

3. Broker-dealers who, within the State of California, sell such securities must strictly observe the suitability limitations and are responsible to the Commissioner for strict compliance by their personnel. Such broker-dealers are required to maintain on their premises within the State of California for three years detailed records with respect to the suitability of each investor.

   If issuers effectuate direct sales of such securities through agents, by mail, or otherwise, without the intervention of a licensed broker-dealer, they are required to maintain records with respect to the suitability of each investor. In such instances, the Commissioner will require these issuers to make periodic reports to him setting forth the names of the persons to whom sales have been effected and evidence of their suitability. Attached hereto is a sample form of suitability letter which a broker-dealer or issuer may obtain from investors.

4. Instructions in writing shall be issued to all sales personnel by broker-dealers and issuers selling securities subject to suitability limitations, directing such personnel to strictly observe these limitations.

Dated: February 27, 1969

By order of
ANTHONY R. PIERNO
Commissioner of Corporations

HANS A. MATTES
Assistant Commissioner
Office of Policy

Release No. 8-C

To (Name and address of broker-dealer or issuer)

Gentlemen:

As a condition to investing in the securities of

(Name of issuer) _____,

hereinafter referred to as the "company", and in order to establish to

(Name of broker-dealer or issuer) _____

the suitability of such investment for me, I hereby represent as follows:

1. (a) My occupation or profession is _____; or

   (b) I am retired and my occupation or profession was _____.

2. I am experienced in investment and business matters. My experience includes the following: _____

3. I am a person who:

   (a) has a net worth of $_____ or more; and
   (b) had during my last tax year, or estimate that I will have during this current tax year, "taxable income" as defined in Section 63 of the Internal Revenue Code of 1954, as amended, some portion of which was or will be subject to Federal Income Tax at a rate of ____% or more.

4. I recognize that the company is newly organized and has no history of operations or earnings and is a speculative venture. If I elect to participate therein I may lose the total amount of my investment.

5. I will rely solely upon the prospectus and investigations made by me or my representatives in making my investment decision.

6. I have been advised that if I participate in the investment offered me I may be required to make additional payments of up to $_____ at a later time. I understand that participation therefore is not considered a suitable investment for persons who may not be able to make such additional payments, if and when required.

7. I understand that the Commissioner of Corporations of the State of California has made no finding or determination relating to the fairness for public investment of the securities offered by the company and that the Commissioner has not and will not recommend or endorse these securities.

8. I recognize that prior to the proposed offering to be made there has been no public market for the securities offered by the company and there is no assurance that after the offering there will be such a market for these securities. In addition, I understand that the transferability of these securities is restricted and that I cannot expect to be able readily to liquidate my investment in case of emergency.

_____
(Signature of Investor)