SICA Announces 1997 SRO Filing Statistics

SAC's SRO Filing Chart lists case filings, case closings, and certain Award results broken down by self-regulatory organization. Those SROs listed are participating members of the Securities Industry Conference on Arbitration, through whose good graces SAC obtains and publishes this information. This Chart covers 1995-1997 and has been updated annually since the first Chart appeared in 1 SAC 4(9). In our 1998 Chart, separate figures for the Municipal Securities Rulemaking Board will disappear, as its arbitration program has been folded into the NASD program. The American Stock Exchange and the Philadelphia Stock Exchange have announced merger plans that may mean their separate programs will be absorbed into NASD's at some point.

From an overall viewpoint, the number of cases received by the participating SROs rose slightly in 1997 to 6,665, up from 6,510 in 1996. However, that small increase masks the fact that every SRO, other than the NASD and the PHLX, experienced a decline in new filings. NASD's increase of 366 new cases (or 6.4%, 1997 vs. 1996) was offset in the overall figures by the filing fall-off at the other SROs. As a result, NASD's market share, which was a prodigious 86% in 1996 grew to 90% in 1997.

Moving to the right side of the Chart, we see the results of customerrelated cases decided during the year. Again, NASD stands out as being only one of two SROs that has a "win" rate for customers (compare "Awards in Favor of Public" to "Public Customer Cases Decided") that exceeds 50%. The NASD rate is 58% and the AMEX rate is 63%. Let us offer two caveats about this kind of comparison. First, the number of Awards for every SRO other than the NASD constitutes too small a sample to guage "win" rates reliably. For example, the NYSE results (41%) would fluctuate almost 5% for every 5 additional Award "wins," while NASD's results would fluctuate only about one-third of a percent.

As we understand the SRO compilation process, there is also an anomaly in the calculation of "wins" for customers. The last two columns encompass customer-related, as opposed to customer-initiated, Awards, so that certain Member-Customer Awards are counted in the "Public Customer Cases Decided" and counterclaim "wins" in those disputes are counted in "Awards In Favor of Public." We think this practice has an inappropriate downward effect on the "win" rates for customers, since customer deficits cases produce few customer "wins." Moreover, the skewing effect of this inclusion is greatest on the forum that has the highest proportion of such Awards. The skewing effect for the NYSE figures, as we calculate it, is three times greater than for the NASD figures.

Filings for securities/commodities disputes were down at the American Arbitration Association and the National Futures Association as well. The AAA remains the third largest securities arbitration forum, but, given the NASD's dominance, its new case filings were less than 150 in 1997. We have just 35 Awards issued by AAA under its Securities Arbitration Rules in 1997. NFA reported new case filings ("Demands received" in their lingo) of 214 in 1995, 235 matters in 1996, and we calculate 190 new filings in 1997 and 194 cases closed. Adding the AAA and NFA cases to the SRO figures yields an overall composite figure of 7,000 new cases filed in securities/commodities arbitration.

That number will clearly be down, if the figures we have for 1998 to date hold throughout the rest of the year. The decline has been a long time coming, but at the NASD, it is dramatic. In 1997, new case filings through April stood at 2,138. For the same four months

in 1998, they stand at 1,582, down 26% year-to-year. At the NYSE, where the decline began several years ago, the new case filings and case close-outs, 177 and 174, respectively, are still below last year's figures, but not as much as NASD's and month-to-month, the figures are trending higher.

Cases out (close-outs) have been greater than cases in (new case filings) at NYSE for the past two years; we suspect that close-outs are down in 1998 only because backlogs are gone. This augurs well for swift turnaround times and unharried staff attention. At NASD, caseload for the four regional offices stood at 5,354 at the end of April 1998. The New York office, which retains the largest caseload, has cut its pending cases over the last three years by some 1,200 matters. While new volume may be down this year, close-outs for 1998 are expected to total about 5,400 cases and average turnaround time will be 12 months or less.

Close-outs consist of cases resolved by Award, by settlement, and those that are filed and later withdrawn (about 7-10% are "others, which group represents a variety of close-out causes). Most expressions of forum settlement rates include withdrawals; parties usually stop arbitrating because a resolution of some kind has been reached, even if that resolution is not conveyed to the forum as a settlement. For 1994, the settlement rate on NASD close-outs was 61%: for 1995, 60%; for 1996, 59%; and for 1997, 62% (excluding withdrawals, the figures would be 53%, 48%, 48%, and 47%, respectively). Mediation accounts for a larger share of the settlements each year; in 1997, mediation accounted for about 20% of the actual settlements.

SRO ARBITRATION FIGURES

Three-Year Chart 1995-1997

| | | Total Coses | | | Dulatio | | |
|---|--------------------------------|-------------------|------------|---------------------|----------------------|-------------------|--|
| | m . 1 | Total Cases | G 11 | G 11 | Public | A 1 | |
| | Total | Concluded | Small | Small | Customer | Awards | |
| | Cases | Including | Claims | Claims | Cases | In Favor | |
| Year | Received | Settlements | Received | Concluded | Decided | Of Public | |
| | AMERICAN STOCK EXCHANGE | | | | | | |
| 1995 | 252 | 63 | 86 | 28 | 14 | 8 | |
| 1996 | 81 | 142 | 49 | 49 | 8 | 3 | |
| 1997 | 43 | 116 | 18 | 38 | 8 | 5 | |
| *The Boston Stock Exchange received 1 new filing in '95 which concluded in '96. There were no new filings in '97. | | | | | | | |
| | CHICAGO BOARD OPTIONS EXCHANGE | | | | | | |
| 1995 | 15 | 26 | 6 | 6 | 5 | 0 | |
| 1996 | 19 | 10 | 6 | 4 | 1 | 0 | |
| 1997 | 12 | 18 | 2 | 4 | 5 | 2 | |
| | go Stock Exchange | | | ange) reported 1 fi | lling in '96 and '95 | but none in '97 | |
| The emeny | | nati Stock Exchar | | | | , out none in 57. | |
| MUNICIPAL SECURITIES RULEMAKING BOARD | | | | | | | |
| 1995 | 9 | 5 | 1 | 3 | 1 | 1 | |
| 1996 | 10 | 6 | 1 | 1 | 5 | 1 | |
| 1997 | 6 | 15 | 2 | 1 | 9 | 4 | |
| | | ATIONAL AS | | | - | <u> </u> | |
| 1005 | _ | | | | | | |
| 1995 | 6,058 | l ' | | 1,159 | ĺ í | l | |
| 1996 1997 | 5,631 5,997 | 6,331 5,880 | 849 778 | 1,155 750 | 1,815 1,497 | 977 875 | |
| 1997 | | | | | | | |
| | NEW YORK STOCK EXCHANGE | | | | | | |
| 1995 | 810 | 784 | 53 | 61 | 175 | 74 | |
| 1996 | 648 | 783 | 21 | 42 | 146 | 49 | |
| 1997 | 546 | 695 | 26 | 34 | 111 | 46 | |
| PACIFIC STOCK EXCHANGE | | | | | | | |
| 1995 | 76 | 166 | 15 | 118 | 79 | 39 | |
| 1996 | 106 | 100 | 10 | 16 | 36 | 17 | |
| 1997 | 34 | 121 | 13 | 12 | 21 | 9 | |
| PHILADELPHIA STOCK EXCHANGE | | | | | | | |
| 1995 | 52 | 63 | 8 | 7 | 21 | 9 | |
| 1 | J2 | l | 2 | 5 | 3 | 1 | |
| i iyuh | 1/1 | 1 31 1 | | | | | |
| 1996 1997 | 14 27 | 31 24 | 3 | 1 | _ | 0 | |
| 1997 | 27 | 24 | 3 | 1 | 2 | 0 | |
| 1997 1995 | 27 7,271 | 24 6,787 | 3 1,163 | 1 1,382 | 2 1,818 | 919 | |
| 1997 | 27 | 24 | 3 | 1 | 2 | 0 | |