

MEMO# 5492

January 14, 1994

INSTITUTE COMMENT LETTER ON EXEMPTION FROM DISCLOSURE REQUIREMENT UNDER NASD ASSET- BASED SALES CHARGE RULE

January 14, 1994 TO: MONEY MARKET FUNDS AD HOC COMMITTEE NO. 2-94 SEC RULES COMMITTEE NO. 7-94 AD HOC COMMITTEE ON 12b-1 ISSUES RE: INSTITUTE COMMENT LETTER ON EXEMPTION FROM DISCLOSURE REQUIREMENT UNDER NASD ASSET-BASED SALES CHARGE RULE _____ The Institute has filed the attached comment letter with the Securities and Exchange Commission concerning the NASD's proposal to amend Article III, Section 26 of the Rules of Fair Practice to exempt certain money market mutual funds that have an asset-based sales charge from the requirement to disclose that long-term shareholders may pay more than the economic equivalent of the maximum front-end sales charges permitted under those rules. As we previously informed you, the SEC recently published the NASD's proposal for public comment. (See Memorandum to Money Market Funds Ad Hoc Committee No. 11-93, SEC Rules Committee No. 116-93 and Ad Hoc Committee on 12b-1 Issues, dated December 30, 1993.) Under the NASD's proposal, money market funds with asset-based sales charges of no more than .25% of average net assets per annum would be specifically excluded from the disclosure requirement, on the basis that the disclosure could be misleading because of the "unique characteristics" of these funds. (According to the NASD, such characteristics include "low asset-based sales charges and low asset growth.") The Institute's letter agrees with the NASD's conclusion that the disclosure should not be required where it might be misleading, but points out that this also could occur in certain cases involving non-money market funds. The letter therefore suggests that the NASD consider giving funds more leeway to determine for themselves whether the disclosure is appropriate in light of their particular characteristics. Frances M. Stadler Associate Counsel Attachment