

MEMO# 12341

July 25, 2000

NASD REGULATORY & COMPLIANCE ALERT CONCERNING SUITABILITY ISSUES FOR MULTI-CLASS FUNDS

[12341] July 25, 2000 TO: SEC RULES MEMBERS No. 53-00 SALES FORCE MARKETING COMMITTEE No. 18-00 RE: NASD REGULATORY & COMPLIANCE ALERT CONCERNING SUITABILITY ISSUES FOR MULTI-CLASS FUNDS NASD Regulation, Inc. recently issued a Regulatory & Compliance Alert reminding members and their registered representatives to consider the suitability of recommending certain higher-expense classes of mutual fund shares, particularly when an investor is seeking a long-term investment.¹ A copy of the Alert is attached and is summarized below. The Alert cautions members that, although the purchase of certain fund classes may allow an investor to avoid paying a front-end sales load, the cost imposed by a class's higher expenses may outweigh this benefit, particularly with respect to large dollar purchases. In particular, members are advised not to recommend Class B or C shares to investors who seek to purchase in large amounts and would incur significantly lower sales charges for Class A share purchases due to the availability of breakpoints, rights of accumulation, or letters of intent.² In order to determine the most suitable share class for an investor, the Alert recommends that the registered representative ask the investor about his or her investment goals and objectives, including the investor's time horizon, and inform those investors seeking to avoid front-end loads of the potential long-term effect of the higher ongoing sales charges associated with Class B shares (and Class C shares, if applicable). The Alert also suggests that members maintain written records of these discussions in their files. Kathy D. Ireland Associate Counsel Attachment Note: Not all recipients receive the attachment. To obtain a copy of the attachment to which this memo refers, please call the ICI Library at (202) 326-8304 and request the attachment for memo 12341. ICI Members may retrieve this memo and its attachment from ICINet (<http://members.ici.org>). ¹ Regulatory & Compliance Alert, Summer 2000 at 14-15. ² In this regard, the Alert encourages members to review a recent SEC administrative decision finding that two broker/dealer sales representatives sold Class B shares in violation of federal securities laws because of their failure to make certain disclosures to their customers regarding the shares. In the Matter of Michael Flanagan, Ronald Kindschi, and Spectrum Administration, Inc., SEC Admin. Proc. File No. 3-9784, Initial Decision Rel. No. 160 (January 31, 2000). A petition for review of this initial decision has been filed. ² Attachment (in .pdf format)

should not be considered a substitute for, legal advice.