

MEMO# 2916

July 8, 1991

NASD PROPOSAL TO EXEMPT DIRECTLY MARKETED FUNDS FROM CUSTOMER ACCOUNT INFORMATION RULE REGARDING EMPLOYMENT DATA

July 8, 1991 TO: SEC RULES COMMITTEE NO. 36-91 BROKER/DEALER ADVISORY COMMITTEE NO. 22-91 RE: NASD PROPOSAL TO EXEMPT DIRECTLY MARKETED FUNDS FROM CUSTOMER ACCOUNT INFORMATION RULE REGARDING EMPLOYMENT DATA

The NASD is soliciting comment on a proposed interpretation of Article III, Section 21(c) of its Rules of Fair Practice that would state that the provisions thereunder that require mutual funds to make reasonable efforts to obtain employment information about a customer are inapplicable to directly marketed funds. Attached is a copy of the NASD Notice to Members. As you know, effective January 1, 1991, Section 21(c) of the NASD Rules of Fair Practice was amended to require members to obtain certain information pertaining to customer accounts, including his or her occupation and name and address of the customer's employer. As we previously informed you, the Institute requested the NASD to consider exempting directly marketed funds from this requirement. (See Memorandum to SEC Rules Members No. 81-90 and Broker/Dealer Advisory Committee No. 45-90, dated December 4, 1990.) Since that time, the NASD has received additional comments from members of the mutual fund industry expressing their objections to the collection of customers' employment data. The attached Notice states that the NASD believes that there is merit to the industry's request to interpret Section 21 to exempt directly marketed funds on the grounds that, among other things, the information is not applicable to the account since no investment recommendation is being made by the NASD member. The NASD also recognized the considerable expense involved with the new requirement in processing and storing the data and printing new account forms. In addition to soliciting comments on the proposed interpretation with respect to directly marketed funds, the NASD is requesting comment on whether other segments of the industry also desire an exemption for their products. Comments are due on the proposed interpretive exemption by July 31, 1991. Therefore, please provide me with your comments no later than July 23, 1991. Amy B.R. Lancellotta Assistant General Counsel Attachment

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