

MEMO# 3465

January 23, 1992

INSTITUTE COMMENT LETTER ON NASD PROPOSAL TO RESCIND GUIDELINES

January 23, 1992 TO: SUBCOMMITTEE ON ADVERTISING NO. 2-92 RE: INSTITUTE COMMENT
LETTER ON NASD PROPOSAL TO RESCIND GUIDELINES

As we previously informed you, the NASD has proposed to rescind its "Guidelines Regarding Communications with the Public about Investment Companies and Variable Contracts" and to incorporate certain parts of the Guidelines into Article III, Section 35 of the NASD's Rules of Fair Practice, which governs communications with the public. (See Memorandum to Subcommittee on Advertising No. 8-91, dated December 18, 1991.) Attached is a copy of the Institute's comment letter on the proposal. In the comment letter, the Institute expresses general support for the proposal, provided that its purpose is to rescind obsolete provisions, and that it does not represent a change in the NASD's substantive regulation of fund sales literature. In this regard, the letter requests that this clearly be stated in the Notice to Members when the matter is submitted for a vote. The letter also contains specific comments on the proposal. These include that the section in the Guidelines entitled "General Considerations", which would be among those rescinded under the proposal, be retained in some form, as well as comments on the three sections proposed to be incorporated into Section 35 (tax-free claims, comparisons, and projections of future performance). We will keep you informed of developments. Craig S. Tyle Deputy General Counsel Attachment

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