

MEMO# 14487

February 28, 2002

NASD PROPOSED RULE ON ANTI-MONEY LAUNDERING COMPLIANCE PROGRAMS

[14487] February 28, 2002 TO: BROKER/DEALER ADVISORY COMMITTEE No. 3-02 CLOSED-END INVESTMENT COMPANY MEMBERS No. 7-02 COMPLIANCE ADVISORY COMMITTEE No. 17-02 SEC RULES MEMBERS No. 12-02 SMALL FUNDS MEMBERS No. 5-02 TRANSFER AGENT ADVISORY COMMITTEE No. 15-02 UNIT INVESTMENT TRUST MEMBERS No. 6-02 RE: NASD PROPOSED RULE ON ANTI-MONEY LAUNDERING COMPLIANCE PROGRAMS The USA PATRIOT Act requires financial institutions, including broker-dealers and investment companies, to establish anti-money laundering compliance programs by April 24, 2002.¹ The Securities and Exchange Commission has published for comment proposed NASD Rule 3011, which would prescribe minimum standards for anti-money laundering compliance programs established by NASD members. A copy of the proposal is attached² and it is summarized below. Proposed Rule 3011 would require each NASD member, on or before April 24, 2002, to develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act and regulations thereunder. Under the proposed rule, the program would have to be approved in writing by a member of senior management. The rule would require NASD member programs to, at a minimum: (1) establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder; 1 Section 352 of the USA PATRIOT Act provides that such programs must include, at a minimum: (1) the development of internal policies, procedures, and controls; (2) the designation of a compliance officer; (3) an ongoing employee training program; and (4) an independent audit function to test programs. 2 SEC Release No. 34-45457 (February 19, 2002), 67 Fed. Reg. 8565 (February 25, 2002) ("Proposing Release"). 2 (2) establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder: (3) provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party; (4) designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program; and (5) provide ongoing training for appropriate personnel. The Proposing Release states that, prior to implementation of the proposed rule change, NASD Regulation, Inc. anticipates providing guidance to members in a Notice to Members "to assist member firms in developing an anti-money laundering program that fits their business model and needs." Comments on the proposal must be filed with the SEC by March 18th. Frances M. Stadler Deputy Senior Counsel Attachment Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 14487, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14487. Attachment (in .pdf format)

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