

MEMO# 17438

April 28, 2004

INSTITUTE URGES IMPLEMENTATION OF NASD BREAKPOINT RECOMMENDATION RELATING TO USE OF COMMON DEFINITIONAL STANDARDS

ACTION REQUESTED

[17438]

April 28, 2004

TO: BANK AND TRUST ADVISORY COMMITTEE No. 9-04
BOARD OF GOVERNORS No. 32-04
BROKER/DEALER ADVISORY COMMITTEE No. 14-04
COMPLIANCE ADVISORY COMMITTEE No. 44-04
OPERATIONS MEMBERS No. 20-04
SEC RULES MEMBERS No. 63-04
SHAREHOLDER COMMUNICATIONS COMMITTEE No. 7-04
SMALL FUNDS MEMBERS No. 47-04
TRANSFER AGENT ADVISORY COMMITTEE No. 38-04
UNIT INVESTMENT TRUST COMMITTEE No. 13-04
RE: INSTITUTE URGES IMPLEMENTATION OF NASD BREAKPOINT RECOMMENDATION RELATING TO USE OF COMMON DEFINITIONAL STANDARDS

As previously reported to you, in July 2003, the Joint NASD/Industry Task Force on Breakpoints issued a report, setting forth thirteen recommendations (Recommendations A-M) to address errors and failures in providing breakpoint discounts to investors in connection with the purchase of mutual fund shares that carry a front-end sales load.¹

Subsequent to the issuance of the Report, working groups of ICI and SIA members and NSCC were formed to further define and voluntarily implement the Report's recommendations. The NASD recently published a status report of the progress that has been made towards implementing the Task Force's recommendations.² With respect to recommendations in progress, we are pleased to inform you that the industry working group has completed proposed Recommendation A, which relates to the development of "Common Definitional Standards." The Task Force recognized that one of the difficulties in delivering breakpoint discounts was the variety of circumstances under which mutual funds

offer these discounts. Without infringing upon mutual funds' ability to set the rules governing the availability of breakpoint discounts, the Task Force wanted to simplify the process of understanding the rules of each mutual fund. Accordingly, the Task Force recommended that mutual funds adopt common definitions of terms frequently used to define breakpoint opportunities.

Although mutual funds will remain free to set rules regarding when rights of accumulation are available, the common definitional standards are intended to encourage mutual funds to describe these rules with uniform language, which should enhance the delivery of breakpoint discounts. The Task Force members, the NASD staff, and representatives of the Institute and the broker-dealer community have reviewed and approved the proposed standards. The final recommended terms, which are attached for your reference, consist of two sections. Section 1 lists the recommended terms. Section 2 lists the terms that the Task Force recommends that members not use in describing their breakpoint opportunities.

In accordance with the Task Force's recommendation that the securities industry implement each of its recommendations on a voluntary basis, the Institute urges mutual fund members that offer breakpoint discounts to review their prospectuses and statements of additional information and revise them, as necessary, to ensure that language used to define breakpoint eligibility conforms to the common definitional standards. (Also, to the extent a fund produces any communications for broker-dealers or their customers, relating to breakpoints, such materials should also utilize these approved terms as appropriate.) The Institute recommends that mutual funds voluntarily undertake this review and make any necessary revisions as soon as reasonably practicable (e.g., in filings of their annual prospectus updates with the SEC).

Tamara K. Salmon

Senior Associate Counsel
Distribution

Kathleen C. Joaquin

Director - Operations and

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 17438, or call the ICI Library at (202) 326-8304 and request the attachment for memo 17438.

[Attachment \(in .pdf format\)](#)