

MEMO# 4509

February 18, 1993

NASD ISSUES QUESTIONS AND ANSWERS ON ASSET-BASED SALES CHARGE ISSUES

February 18, 1993 TO: BOARD OF GOVERNORS NO. 12-93 SEC RULES MEMBERS NO. 20-93 ACCOUNTING/TREASURERS MEMBERS NO. 5-93 BROKER/DEALER ASSOCIATE MEMBERS NO. 6-93 SMALL FUNDS MEMBERS NO. 2-93 RULE 12b-1 AD HOC COMMITTEE RE: NASD ISSUES QUESTIONS AND ANSWERS ON ASSET-BASED SALES CHARGE ISSUES

The NASD has issued a Notice to Members that sets forth questions and answers about its new rules governing asset-based sales charges, which were approved by the SEC last year. The questions and answers are intended to assist NASD members in interpreting and implementing the new rules. As a reminder, the new rules take effect July 7, 1993. The Notice states that the statements included therein "supersede and replace any and all prior statements of the NASD on the subject of investment company sales charges to the extent such prior statements are inconsistent with this Notice." It goes on to note that the NASD may publish further questions and answers as needed. The Notice also reminds members that its rule applies to NASD members, not investment companies, and, accordingly, NASD members are responsible for compliance. In this regard, the Notice states that members may rely on disclosure in a fund's prospectus or on other statements from a fund about the amount of sales charges paid by the fund "unless the member knows, or should have known on the exercise of reasonable diligence, that the statements are not true." The questions and answers included in the Notice are divided into five sections. The first section addresses basic questions concerning the calculations required to be made under the rule, e.g., how frequently must a fund calculate its remaining balance, what interest rate should be applied, etc. The second section addresses issues concerning retroactive calculations, i.e., how to apply the rule to sales occurring before July 7, 1993. The third section of the questions and answers concerns service fees. Among other things, the section provides a more detailed explanation of what types of payments are considered "service fees" for purposes of the new rule. The fourth section addresses exchanges between funds and how portions of a fund's remaining balance may be transferred to another fund pursuant to an exchange. Finally, the fifth section addresses miscellaneous matters. The Notice to Members also includes an example of calculations to be made under the rule for a hypothetical fund. A copy of the Notice to Members is attached. Craig S. Tyle Vice President - Securities Attachment