

MEMO# 11287

October 1, 1999

DRAFT COMMENT LETTER ON NASD SALESPERSON COMPENSATION PROPOSALS

* See Memorandum to Closed-End Investment Company Committee No. 28-99, SEC Rules Committee No. 63-99 and Unit Investment Trust Committee No. 19-99, dated September 7, 1999. [11287] October 1, 1999 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 33-99 SEC RULES COMMITTEE No. 74-99 UNIT INVESTMENT TRUST COMMITTEE No. 26-99 RE: DRAFT COMMENT LETTER ON NASD SALESPERSON COMPENSATION PROPOSALS

We recently sent you NASD Notice to Members 99-81, in which NASD Regulation, Inc. requested comments on three proposals relating to salesperson compensation.* The proposals include: (1) a rule prohibiting "single security sales contests;" (2) a rule prohibiting the payment of higher payout ratios to salespersons for the sale of proprietary, vs. non-proprietary, investment company products; and (3) a rule requiring disclosure of accelerated payout arrangements for salespersons who change firms. Attached for your review is a draft of the Institute's comment letter, which addresses only the first two proposals. The draft letter is summarized below. Comments on the proposals are due on October 29th. If you have comments on the attached draft letter, please contact Tami Reed at (202) 326-5825 (or by e-mail to tamara@ici.org), or Frances Stadler at (202) 326-5822 (or by e-mail to frances@ici.org) by Monday, October 18th.

Single Security Sales Contests
The draft letter expresses support for the policy objectives of the proposed new rule prohibiting "single security sales contests," but notes that the same objectives underlie the NASD's recent amendments to its non-cash compensation rule. The letter reiterates the Institute's view that for this very reason, the same standards should apply to all sales contests involving investment company securities, regardless of the form of compensation to be awarded. The letter therefore recommends that with respect to sales contests involving investment company securities, in lieu of applying the proposed new rule prohibiting "single security sales contests," NASDR should revise Rule 2830 to apply to all sales contests the restrictions currently applicable to sales contests that award non-cash compensation to registered representatives.

2 Payment of Differential Cash Compensation
The draft letter also supports the goals of the proposal concerning differential payouts for proprietary vs. non-proprietary investment company products. It expresses concerns, however, about whether the proposal would be workable as currently drafted. Based on the many open issues about how or whether the proposal would work, the draft letter suggests that NASDR defer action on it at this time. The letter further notes that by adopting the sales contest proposal as modified to reflect the Institute's comments, NASDR could make progress on achieving the goals of the differential payout proposal without raising numerous interpretive issues.

Regulation of Cash Compensation Paid to Broker-Dealer

Firms The draft letter briefly discusses the broader issue of how to regulate cash compensation paid to broker-dealer firms in connection with the sale or distribution of investment company securities. It states that the Institute continues to support a disclosure approach to regulating such compensation arrangements, and urges NASDR to improve disclosure of these arrangements to investors. Frances M. Stadler Deputy Senior Counsel
Attachment

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