

MEMO# 14349

January 14, 2002

SPECIAL NASD NOTICE TO MEMBERS REGARDING COMPENSATION AND MIXED CAPACITY TRADING

[14349] January 14, 2002 TO: COMPLIANCE ADVISORY COMMITTEE No. 4-02 EQUITY MARKETS ADVISORY COMMITTEE No. 4-02 SEC RULES COMMITTEE No. 3-02 RE: SPECIAL NASD NOTICE TO MEMBERS REGARDING COMPENSATION AND MIXED CAPACITY TRADING

The Nasdaq Stock Market and NASD Regulation recently issued a Special NASD Notice to Members¹ (a copy of which is attached) relating to market makers' regulatory obligations when executing transactions on a commission or commission-equivalent basis. The Notice to Members is in response to requests for interpretive advice from NASD member firms, which have been increasingly interested in expanding the use of a commission-based fee model due to reduced revenues resulting from the implementation of decimalization in the Nasdaq Stock Market. The Notice to Members is separated into several different sections. The first two sections discuss, in general, the different types of trades that may occur on the Nasdaq Stock Market and the fees that may be charged for these trades. The Notice to Members then discusses market makers' regulatory obligations when handling orders in mixed capacities, i.e., as agent, riskless principal, and/or principal. Finally, the Notice to Members discusses how trade reporting would operate for mixed executions as well as recordkeeping obligations of NASD member firms when trading in a mixed capacity basis. Ari Burstein Associate Counsel Attachment (in .pdf format) 1 Special NASD Notice to Members 01-85, "Compensation and Mixed Capacity Trading," December 2001.

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