

MEMO# 8910

May 20, 1997

NASDR REQUESTS COMMENT ON POSSIBLE RISK DISCLOSURE RULE

May 20, 1997 TO: ADVERTISING SUBCOMMITTEE No. 17-97 SEC RULES COMMITTEE No. 53-97 RE: NASDR REQUESTS COMMENT ON POSSIBLE RISK DISCLOSURE RULE

NASD

Regulation, Inc. has issued a notice requesting comment on whether it should adopt a rule requiring disclosure of investment risks and the absence of guarantees or insurance related to investing in securities products. A copy of Request for Comment 97-29 is attached, and it is summarized below. Comments must be filed by June 30, 1997. If there are issues you would like the Institute to consider addressing in its comment letter, please contact me at (202) 326-5822 (or by e-mail to frances@ici.org) by Thursday, June 5th. The Request for Comment refers to NASDR's pending proposed bank broker/dealer rule, which specifies the disclosures a member must make to a customer who opens an account with the member on the premises of a financial institution where retail deposits are taken. These disclosures include that the securities products purchased or sold in a transaction with the member: (1) are not insured by the FDIC or other deposit insurance; (2) are not deposits or obligations of a financial institution and are not guaranteed by a financial institution; and (3) are subject to investment risks, including possible loss of principal. The Request for Comment seeks comment on whether NASDR should adopt a similar rule requiring disclosure of investment risks and the presence or absence of guarantees related to investing in particular products. Commenters are asked to address whether these types of disclosures are so significant that they should be required in every case or whether general disclosure obligations under federal securities laws, common law and NASD rules are sufficient to address specific concerns about insured versus uninsured products. To the extent commenters believe a rule should be adopted, the Request for Comment asks whether any such disclosures should be required when a customer transfers funds from an insured product to an uninsured securities product or when a member offers a customer the choice between an insured product and an uninsured securities product. Comment also is requested on whether any required disclosures should be made when an account is opened or at the point of sale. The Request for Comment inquires whether, to the extent a rule is adopted, it should apply only to members selling both insured and uninsured products or to all members. In this regard, the Request for Comment notes: "Requiring members that sell only uninsured securities products to provide these disclosures, particularly that securities products are subject to investment risks, including fluctuation in value, would benefit customers who are investing in a securities product either for the first time or after liquidating an insured product." In the attached Request for Comment, in addition to seeking comment on a possible new risk disclosure rule, NASDR reminds members of their existing disclosure obligations when recommending the purchase or sale of a mutual fund

or any other securities product. Among other things, NASDR indicates that "[d]isclosure of the risks of investing in a particular securities product relative to other investments or the relative risks and rewards of liquidating an insured product to invest in an uninsured securities product is required if the circumstances surrounding the investment decision lead the member to believe the investor would regard the fact as material to his or her investment objectives and financial situation." (Citation omitted.) Frances M. Stadler
Associate Counsel Attachment

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