

MEMO# 2356

December 4, 1990

NASD CUSTOMER ACCOUNT INFORMATION RULE

December 4, 1990 TO: SEC RULES MEMBERS NO. 81-90 BROKER/DEALER ADVISORY
COMMITTEE NO. 45-90 BROKER/DEALER ASSOCIATE MEMBERS NO. 5-90 RE: NASD
CUSTOMER ACCOUNT INFORMATION RULE

As we previously informed you, the NASD adopted amendments to Sections 2 and 21 of its Rules of Fair Practice to require a member to obtain additional information pertaining to customer accounts. These amendments are effective January 1, 1991. (See Memorandum to SEC Rules Members No. 58-90, Broker/Dealer Advisory Committee No. 27-90 and Broker/Dealer Associate Members No. 3-90, dated August 2, 1990.) The change to Section 21(c) requires all NASD members to make a reasonable effort to obtain additional information from each customer, including his or her occupation and name and address of the customer's employer. The Institute requested the NASD to consider exempting direct marketing funds from this requirement. We commented that, among other things, since these funds are sold without the recommendation of a broker, there was no justifiable reason for them to obtain this information. In addition, we noted that this requirement would be onerous since all funds would have to amend and reprint all of their application forms, as well as modify their computer systems for storing and retrieving the required information account by account, which involves a considerable expense. We also expressed our concern that inquiries on account applications of this nature may be considered to be intrusive by potential investors and, thus, may discourage some investors from purchasing fund shares. The National Business Conduct Committee of the NASD, which was responsible for these amendments, denied our request to exempt direct marketing funds from the new requirement under Section 21(c). However, that Committee did clarify that the requirements concerning customer account information under Section 2 only apply when a recommendation is made to customers. Attached is a copy of the NASD's letter responding to our request. Amy B.R. Lancellotta Assistant General Counsel Attachment