

MEMO# 15377

November 22, 2002

PROPOSED NASD RULE CHANGE TO REQUIRE IDENTIFICATION OF AND CONTACT INFORMATION FOR AML COMPLIANCE PERSONS

[15377] November 22, 2002 TO: BROKER/DEALER ADVISORY COMMITTEE No. 48-02 COMPLIANCE ADVISORY COMMITTEE No. 105-02 MONEY LAUNDERING RULES WORKING GROUP No. 69-02 SEC RULES MEMBERS No. 103-02 SMALL FUNDS MEMBERS No. 51-02 TRANSFER AGENT ADVISORY COMMITTEE No. 104-02 RE: PROPOSED NASD RULE CHANGE TO REQUIRE IDENTIFICATION OF AND CONTACT INFORMATION FOR AML COMPLIANCE PERSONS The Securities and Exchange Commission has published for comment a proposal by the National Association of Securities Dealers, Inc. to amend NASD Rule 3011, which requires all NASD members (including mutual fund underwriters) to develop and implement written anti- money laundering (AML) programs.¹ A copy of the proposal is attached and it is summarized below. Note: Although the SEC will accept comments on the proposed rule change through November 26, 2002, it became effective upon its publication in the Federal Register and NASD members will need to comply with the amended rule by December 31, 2002. Rule 3011 sets forth minimum requirements for NASD members' AML programs. One such requirement is that the NASD member designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program. NASD is proposing to amend that provision of the rule to add requirements that the member: (1) identify such person or persons to NASD by name, title, mailing address, e-mail address, telephone number, and facsimile number; and (2) promptly notify NASD regarding "any change in such designation(s)." The Proposing Release explains that the purpose of the rule change is to facilitate the Treasury Department's efforts to collect contact information for purposes Section 314(a) of the USA PATRIOT Act and the rule Treasury adopted in September to implement that provision.² 1 See SEC Release No. 34-46739 (October 29, 2002), 67 Fed. Reg. 67432 (November 5, 2002) ("Proposing Release"). 2 See Memorandum to Broker-Dealer Advisory Committee No. 41-02, Compliance Advisory Committee No. 79-02, Money Laundering Rules Working Group No. 55-02, SEC Rules Members No. 81-02, Small Funds Members No. 38-02 and Transfer Agent Advisory Committee No. 85-02, dated September 26, 2002. 2 Section 314(a) and the implementing rule address information sharing between government authorities and financial institutions for the purpose of identifying, preventing, and deterring money laundering and terrorist activity. Under the rule, upon receiving a request from Treasury's Financial Crimes Enforcement Network (FinCEN), a financial institution is required to search its records for accounts or transactions involving any person or entity named in the request. In addition, the financial institution must designate a contact person for future requests

and, when requested by FinCEN, provide that person's name, title, mailing address, e-mail address, telephone number, and facsimile number. A financial institution that has provided contact information also must promptly notify FinCEN of any changes to that information. According to the Proposing Release, NASD intends to initially collect the contact information through the Member Firm Contact Questionnaire on the NASD Website. Form and system changes necessary to collect the information were expected to be completed by November 15, 2002, and NASD members will have until December 31, 2002 to provide contact information to NASD. Frances M. Stadler Deputy Senior Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 15377, or call the ICI Library at (202) 326-8304 and request the attachment for memo 15377. Attachment (in .pdf format)

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