

MEMO# 16509

September 8, 2003

NASD REMINDS MEMBERS OF THEIR OBLIGATIONS REGARDING PRICING AND PROCESSING OF FUND TRANSACTIONS

[16509] September 8, 2003 TO: SEC RULES MEMBERS No. 119-03 COMPLIANCE ADVISORY COMMITTEE No. 72-03 SMALL FUNDS MEMBERS No. 49-03 RE: NASD REMINDS MEMBERS OF THEIR OBLIGATIONS REGARDING PRICING AND PROCESSING OF FUND TRANSACTIONS

NASD has published a Special Notice to Members to remind NASD members of their responsibility, consistent with NASD Rules 2110 and 2120, to have and implement policies and procedures reasonably designed to detect and prevent the occurrence of late trading. * Members are directed to pay particular attention to policies and practices regarding the entry of trades time stamped before or at the close but entered or executed after the close. Members are additionally directed to take steps reasonably designed to ensure that their systems to correct errors after the close cannot be subverted for the purposes of effective late trading. The Special Notice discusses the provisions of Rule 22c-1(a) under the Investment Company Act of 1940, which requires the forward pricing of mutual funds shares in order to place all purchasers of such shares on equal footing as to price and information on any one day. It notes that an NASD member firm or its associated persons that knowingly or recklessly effects or facilitates an after-close mutual fund purchase or redemption at the same day's NAV (i.e., engages in late trading), may violate NASD Rule 2110, which requires the observance of just and equitable principles of trade, and may also violate NASD Rule 2120, which prohibits the use of manipulative, fraudulent, or deceptive devices. These rules may additionally be violated if the member knowingly or recklessly undertakes, effects, or otherwise facilitates transactions, such as market timing transactions, that are contrary to a representation made in a mutual fund prospectus or statement of additional information. According to the Special Notice, members must review the adequacy of their policies and procedures with regard to the matters discussed in the Special Notice to ensure compliance with NASD's rules. NASD intends to examine the reasonableness of members' policies and procedures in this area. Tamara K. Salmon Senior Associate Counsel * See Special Notice to Members, NASD (September 2003)(the "Special Notice"). A copy of the Special Notice is available on the NASD's website at <http://www.nasdr.com/pdf-text/0350ntm.pdf>.

Source URL: <https://icinew-stage.ici.org/memo-16509>

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.