

MEMO# 11808

April 13, 2000

NASD ISSUES NOTICE TO MEMBERS REGARDING RESPONSIBILITIES WHEN ADVERTISING EXTRAORDINARY FUND PERFORMANCE

* NASD Notice to Members 00-21 (April 2000). [11808] April 13, 2000 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 12-00 BOARD OF GOVERNORS No. 21-00 SEC RULES MEMBERS No. 25-00 SMALL FUNDS MEMBERS No. 9-00 RE: NASD ISSUES NOTICE TO MEMBERS REGARDING RESPONSIBILITIES WHEN ADVERTISING EXTRAORDINARY FUND PERFORMANCE

The National Association of Securities Dealers recently issued the attached Notice to Members to remind its members of their responsibilities to present fund performance information in a fair and balanced manner and not to create unrealistic investor expectations with regard to future fund performance.* The Notice states that some members are prominently advertising unusually high performance resulting from the strong equity market performance in 1999, which helped certain mutual funds achieve unusually high total returns. The Notice cautions members that if they choose to present extraordinary recent fund performance, they should do so in a manner designed to lessen the possibility that investors will have unreasonable expectations concerning the future performance of these funds. The Notice reviews NASD general standards governing member communications with the public and applies these standards to mutual fund performance presentations. Specifically, the Notice states that it may be necessary for members to include information beyond what is required under SEC Rule 482 when unusual performance is presented in order for the sales material not to be misleading. Additionally, the Notice emphasizes that in order to comply with the requirements of NASD Rule 2210(d)(1), members should avoid overemphasizing recent high performance figures or implying that they will recur. Finally, the Notice indicates that if a fund's recent performance was the result of an investment in an unusually "hot" industry or other factors that may not continue to exist, members should include prominent, cautionary language in the text of the communication that balances the extraordinary performance presentation. Doretha VanSlyke Zornada Assistant Counsel

Attachment

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