

MEMO# 12702

October 2, 2000

NASDR ADOPTS DAY-TRADING RULE EFFECTIVE OCTOBER 16TH

[12702] October 2, 2000 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 30-00 SEC RULES COMMITTEE No. 118-00 RE: NASDR ADOPTS DAY-TRADING RULE EFFECTIVE OCTOBER 16TH As we previously advised you, in April 1999, NASD Regulation, Inc. issued a Notice to Members that proposed for comment two rules relating to day-trading.¹ While the proposed rules did not appear to affect investment companies directly, the Notice requested comment on whether NASDR should, for purposes of the rules, define the term "recommendation," and, if so, what types of activities should constitute a recommendation in the context of day trading. Of concern to the Institute was NASDR's proposed interpretation of "recommendation."² The Institute filed a comment letter with NASDR expressing concern with the proposed interpretation.³ The Institute's letter noted that the interpretation was inconsistent with the position stated in a 1997 letter from NASDR to the Institute, which confirmed that "a reference to an investment company or an offer of investment company shares in an advertisement or piece of sales literature would not by itself constitute a 'recommendation' for purposes of [NASDR's suitability rule]." The Institute is pleased to report that, as adopted, NASDR's day trading rules have replaced the term "recommend" with the term "promote."⁴ As such, it would appear that the concerns raised in the Institute's comment letter have been resolved to our satisfaction. The effective date of the new rules is October 16, 2000. Tamara Reed Associate Counsel 1 See Memorandum to Advertising Compliance Advisory Committee No. 10-99 and SEC Rules Committee No. 31-99, dated April 29, 1999, relating to Notice to Members 99-32 (April 15, 1999). 2 In particular, the Notice states that a member "would be recommending a day trading strategy . . . if it affirmatively promoted day trading through advertising, training seminars, or direct outreach programs" and an individual engaged in day trading. 3 See Memorandum to Advertising Compliance Advisory Committee No. 13-99 and SEC Rules Committee No. 44-99, dated June 3, 1999. 4 See NASD Notice to Members 00-62 (September 2000).

Source URL: <https://icinew-stage.ici.org/memo-12702>

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.