

MEMO# 9978

May 29, 1998

INSTITUTE COMMENT LETTER ON PROPOSED CHANGES TO NASD RULES GOVERNING CORRESPONDENCE WITH CUSTOMERS

1 See Memorandum to Advertising Compliance Subcommittee No. 20-98 and SEC Rules Committee No. 42-98, dated May 12, 1998. 2 See Memorandum to Advertising Compliance Subcommittee No. 21-98 and SEC Rules Committee No. 45-98, dated May 20, 1998. [9978] May 29, 1998 TO: ADVERTISING COMPLIANCE SUBCOMMITTEE No. 23-98 SEC RULES COMMITTEE No. 50-98 RE: INSTITUTE COMMENT LETTER ON PROPOSED CHANGES TO NASD RULES GOVERNING CORRESPONDENCE WITH CUSTOMERS

The Institute recently filed with the Securities and Exchange Commission the attached comment letter on the proposed change to National Association of Securities Dealers, Inc. Rule 2210 to require that customer correspondence be subject to the general and certain specific standards of Rule 2210 that govern advertising and sales literature.¹ With a few minor changes, the letter is generally the same as the draft letter circulated on May 20, 1998.² The letter commends NASD Regulation, Inc. for responding to comments and revising its June 1997 proposal to subject correspondence to Rule 2210. The letter states our continued belief, however, that it is unnecessary to subject individual correspondence to Rule 2210's standards in order to address the perceived wrongful conduct of a few NASD members. The letter also comments that, if the SEC is nevertheless inclined to approve this proposal, certain changes should be made. First, the rule change should make clear that it does not subject correspondence to the SEC's advertising rules. Second, the definition of "correspondence" under Rule 2210 should be narrowed to cover only correspondence in connection with the offer or sale of a security. Third, several provisions of Rule 2210(d) should be revised so as not to impose additional disclosure requirements on correspondence. Joseph P. Savage Assistant Counsel Attachment

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