

MEMO# 10940

April 29, 1999

NASD REQUESTS COMMENT ON DAY TRADING RULES PROPOSAL

* See Special NASD Notice to Members 99-32 (April 15, 1999). [10940] April 29, 1999 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 10-99 SEC RULES COMMITTEE No. 31-99 RE: NASD REQUESTS COMMENT ON DAY TRADING RULES PROPOSAL

The NASD has issued the attached Notice to Members requesting comment on two proposed rules to address investor protection concerns that arise in connection with day trading.* Both rules would only apply to those NASD member firms that recommend a day trading strategy to customers. The first rule, Rule 2360, would require the firm to approve the individual's account for day trading. The second rule, Rule 2361, would prohibit the firm from effecting a transaction unless, prior to the first transaction, the member has provided to the customer, in writing or electronically, a disclosure statement that discusses the risks of day trading. While the Notice would not appear to affect investment companies directly, it does request comment on whether the NASD 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. (The proposed rules do not currently include a definition of the term.) In its discussion of this issue, the Notice states that, "In general, a member would be recommending a day-trading strategy for purposes of the proposed rules if it affirmatively promoted day trading through advertising, training seminars, or direct outreach programs, and an individual engaged in day trading in response to these solicitations." Comments are due to the NASD by May 31, 1999. Persons with comments they would like to have included in the Institute's comment letter should submit them to the undersigned by phone (202)326-5825, fax (202)326-5839, or e-mail (tamara@ici.org) no later than Wednesday, May 12. Tamara K. Reed Associate Counsel Attachment

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