

**MEMO# 9024**

June 30, 1997

## **INSTITUTE LETTER ON NASDR REQUEST FOR COMMENT ON THE NEED FOR A RISK DISCLOSURE RULE**

\* See Memorandum to Advertising Subcommittee No. 17-97 and SEC Rules Committee No. 53-97, dated May 20, 1997 (NASDR proposal); and Memorandum to SEC Rules Committee No. 61-97 and Advertising Subcommittee No. 21-97, dated June 19, 1997 (draft comment letter). June 30, 1997 TO: SEC RULES COMMITTEE No. 64-97 ADVERTISING SUBCOMMITTEE No. 23-97 RE: INSTITUTE LETTER ON NASDR REQUEST FOR COMMENT ON THE NEED FOR A RISK DISCLOSURE RULE

As we previously informed you, NASD Regulation, Inc. requested comment on whether the disclosures suggested in the pending bank broker/dealer rule proposal ("Bank Proposal"), which would apply to NASD members operating on the premises of financial institutions, should be imposed on all NASD members or, alternatively, on those that sell both FDIC-insured products and uninsured securities products.\* The Institute recently submitted the attached comment letter in response to NASDRs request. The Institutes comment letter opposes application of a new rule requiring disclosure of investment risks and the absence of guarantees or insurance related to investing in securities products to NASD members not operating on bank premises where retail deposits are taken. The letter explains that such a rule is unnecessary and inappropriate, especially given that the reason that special disclosure and other requirements applicable to sales of securities on bank premises have been adopted is in response to specific concerns regarding potential customer confusion in such contexts. (The letter notes, however, that the Institute does not necessarily agree that all of the particular requirements that are currently imposed pursuant to the Interagency Statement and that would be imposed under the Bank Proposal are necessary to accomplish the goal of avoiding customer confusion.) Finally, the letter states that any customer confusion concerns about insured versus uninsured products sold by NASD members not located on bank premises are adequately addressed by existing federal securities laws and NASD rules. It recommends that rather than trying to fashion an overly-broad rule, NASDR should instead continue to remind NASD members of their existing disclosure obligations. Barry E. Simmons Assistant Counsel Attachment (in .pdf format)

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