

MEMO# 15426

December 6, 2002

DEVELOPMENTS REGARDING PATRIOT ACT INFORMATION REQUESTS

[15426] December 6, 2002 TO: BROKER/DEALER ADVISORY COMMITTEE No. 49-02 COMPLIANCE ADVISORY COMMITTEE No. 110-02 MONEY LAUNDERING RULES WORKING GROUP No. 72-02 SEC RULES MEMBERS No. 108-02 SMALL FUNDS MEMBERS No. 53-02 TRANSFER AGENT ADVISORY COMMITTEE No. 106-02 RE: DEVELOPMENTS REGARDING PATRIOT ACT INFORMATION REQUESTS As you know, the information sharing rule adopted under the USA PATRIOT Act enables federal law enforcement agencies investigating terrorist activity or money laundering to request that the Treasury Department's Financial Crimes Enforcement Network (FinCEN) solicit information from one or more financial institutions.¹ Upon receiving such an information request from FinCEN, a financial institution must "expeditiously search its records to determine whether it maintains or has maintained any account for, or has engaged in any transaction with, each individual, entity, or organization named in FinCEN's request."² These information requests are sometimes referred to as Section 314(a) requests, after the section of the USA PATRIOT Act that authorized the information sharing rule. The National Association of Securities Dealers (NASD) recently published a notice to members regarding Section 314(a) information requests.³ A copy of the notice, NtM 02-80, is attached and briefly summarized below. Temporary Moratorium on Information Requests NtM 02-80 states that FinCEN has issued a brief moratorium on new information requests and on responding to prior information requests. During the moratorium, FinCEN, in consultation with the federal financial regulators, will develop guidance concerning future requests. The NtM also notes that FinCEN has reserved the right to immediately reinstate the 1 31 C.F.R. 103.90 et seq. See also Memorandum to Broker-Dealer Advisory Committee No. 41-02, Compliance Advisory Committee No. 79-02, Money Laundering Rules Working Group No. 55-02, SEC Rules Members No. 81-02, Small Funds Members No. 38-02 and Transfer Agent Advisory Committee No. 85-02, dated September 26, 2002. ² 31 C.F.R. 103.100(b)(2). ³ NASD Notice to Members 02-80 (December 2, 2002). ² information request process in the event of a threat to national security or other emergency. FinCEN's statement issuing the moratorium is attached to NtM 02-80. AML Compliance Officer Contact Information In an earlier NtM, the NASD notified its members that it had adopted an amendment to NASD Rule 3011 requiring each NASD member firm to provide to the NASD contact information for the individual(s) responsible for implementing the day-to-day operations and internal controls of the firm's anti-money laundering program.⁴ NtM 02-80 reminds NASD member firms that the amendment to Rule 3011 is effective and becomes operative on December 31, 2002. Accordingly, by December 31, 2002, NASD member firms are required to provide the NASD with the required contact information for their AML compliance officer(s). Robert C. Grohowski Associate Counsel Attachment (in .pdf format) ⁴ NASD Notice to Members 02-78

(November 1, 2002). See also Memorandum to Broker-Dealer Advisory Committee No. 48-02, Compliance Advisory Committee No. 105-02, Money Laundering Rules Working Group No. 69-02, SEC Rules Members No. 103-02, Small Funds Members No. 51-02 and Transfer Agent Advisory Committee No. 104-02, dated November 22, 2002.

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