

MEMO# 8164

August 19, 1996

NASD NOTICE ON SUPERVISORY AND OTHER OBLIGATIONS RELATED TO USE OF ELECTRONIC MEDIA

1 NASD Notice to Members 96-50 (July 1996). August 19, 1996 TO: SEC RULES COMMITTEE No. 88-96 SUBCOMMITTEE ON ADVERTISING No. 24-96 RE: NASD NOTICE ON SUPERVISORY AND OTHER OBLIGATIONS RELATED TO USE OF ELECTRONIC MEDIA

NASD Regulation, Inc. recently published the attached Notice to Members that discusses and seeks comment on the supervisory and other obligations of NASD members and their associated persons with respect to the use of electronic media.¹ The Notice's primary focus is on the use of electronic media by registered representatives. Of interest to investment companies, the Notice generally states that NASD members must ensure that communications with the public disseminated through electronic media comply with the approval, recordkeeping and filing requirements of the NASD's rules. Of particular note, the Notice clarifies that "e-mail directed only to an individual customer, like a piece of written correspondence sent to an individual customer, is not 'advertising or 'sales literature subject to NASD Rule 2210 (formerly Article III, Section 35 of the NASD Rules of Fair Practice)." The remainder of the Notice discusses issues related to NASD members' suitability, disclosure and supervisory obligations with respect to registered representatives' use of electronic media. Alexander C. Gavis Assistant Counsel Attachment

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