

MEMO# 18465

January 26, 2005

BROKER-DEALER SETTLES NASD CHARGES OVER FAILURE TO MAINTAIN SUPERVISORY SYSTEMS TO PREVENT LATE TRADING OF FUND SHARES

[18465] January 26, 2005 TO: CHIEF COMPLIANCE OFFICER COMMITTEE No. 6-05 COMPLIANCE ADVISORY COMMITTEE No. 6-05 SEC RULES MEMBERS No. 14-05 SMALL FUNDS MEMBERS No. 9-05 RE: BROKER-DEALER SETTLES NASD CHARGES OVER FAILURE TO MAINTAIN SUPERVISORY SYSTEMS TO PREVENT LATE TRADING OF FUND SHARES The NASD announced the settlement of charges against a registered broker-dealer for failing to maintain supervisory systems and written procedures reasonably designed to prevent late trading in mutual fund shares.* In settling the matter, the broker-dealer neither admitted nor denied the NASD's allegations or findings. The settlement, which is attached, is briefly described below. According to the NASD, from November 2002 through November 2003, the broker-dealer's systems allowed customers to communicate orders to the firm's registered representatives after the close of the market and permitted the representatives to process such orders at the current day's net asset value. The NASD determined that the broker-dealer violated applicable NASD rules because its supervisory system and written procedures: (1) failed to prevent registered representatives from entering customer orders after 4:00 p.m.; (2) failed to inform registered representatives that entering customer orders after 4:00 p.m. at that day's net asset value was prohibited unless the order was received prior to 4:00 p.m.; and (3) failed to detect and prevent any orders that were entered after 4:00 p.m. that received the current day's NAV. The NASD also found that the broker-dealer violated Section 17(a) of the Securities Exchange Act, Exchange Act Rule 17a-3, and applicable NASD rules by failing to record receipt times for customer orders and by failing to maintain a supervisory system and written procedures to ensure that the firm correctly recorded order receipt times. * See Banc One Securities Corporation Fined \$400,000 for Supervisory Failures Relating to Late Trading (press release issued by NASD, Jan. 12, 2005), available at http://www.nasd.com/web/idcplg?IdcService=SS_GET_PAGE&ssDocName=NASDW_012983&ssSourceNodeid=551. 2 The broker-dealer agreed to a censure and payment of a \$400,000 fine. Rachel H. Graham Assistant Counsel Attachment (in .pdf format) Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 18465, or call the ICI Library at (202) 326-8304 and request the attachment for memo 18465.

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