

COMMENT LETTER

January 14, 2003

Institute Corresponds with NASD on Sales Charge Breakpoints, January 2003

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Mr. Robert R. Glauber
Chairman and Chief Executive Officer
NASD, Inc.
1735 K Street, N.W.
Washington, DC 20006

Dear Bob:

The Investment Company Institute fully supports the NASD's efforts to protect mutual fund investors from being overcharged by dealer firms who may be failing to extend to investors sales charge "breakpoints," or discounts, offered by funds. We appreciate that this is a matter of great importance and we are committed to assist in any way to help resolve the problem for the benefit of mutual fund investors.

By way of background, the Institute has for many years sponsored a working committee of mutual fund and broker dealer operations executives to standardize transaction processing between mutual funds and dealer firms. This group, the ICI Broker Dealer Advisory Committee ("Committee"), has met and worked continuously since the early 1980s. This Committee guided the development and implementation of Fund/SERV, Networking and other industry standard mutual fund services operated by DTCC, which have dramatically improved the operating environment for dealer firms, mutual funds and mutual fund shareholders. The attached memo describes in more detail how Fund/SERV actually facilitates the extension of "breakpoints" and other sales charge reduction privileges offered by mutual funds.

Dealer sales agreements between mutual fund principal underwriters and dealer firms set out the duties and responsibilities associated with fund share sales activities. Under those agreements, dealers are generally responsible for assuring that various investor privileges offered in a fund's prospectus, including sales charge discounts, are made available to investors. Mutual funds rely on dealer firms and their representatives to convey the information about client fund purchases necessary for funds to apply sales charges in the appropriate amounts.

It should be noted that many dealer firms operate their own proprietary recordkeeping

systems for mutual fund accounts, referred to as “sub-accounting,” or “sub-transfer agent” systems. In these cases the mutual fund maintains a single account on its books for the dealer, known as an “omnibus account,” and has no knowledge of the identities or transaction histories of, or account privileges elected by, individual beneficial shareholders in the dealer’s “omnibus account.” Thus, the mutual fund is wholly reliant on the dealer’s sales representatives, back-office staff, and proprietary accounting system to ensure the proper assessment of sales charges.

Yesterday, several Institute staff and fund company volunteers from the Committee participated in an SIA-sponsored conference call to begin taking steps to help the dealer community formulate approaches to solve the problem. Our initial thoughts are that (1) an educational campaign designed to ensure that dealers’ sales and back-office staffs understand their duties under the sales agreements is strongly indicated, and (2) transaction processing systems are very likely not part of the problem. As noted in the attached memo, Fund/SERV and fund company processing systems accommodate proper sales load processing. We are obviously not in a position to comment on the adequacy of particular dealers’ systems to properly assess sales charges. However, to the extent any shortcomings in dealer systems are found to be contributing to the problem, we are committed to assisting with advice and guidance in the remediation of any such systems issues.

As noted above, the Institute and its members are committed to providing any assistance the NASD requests and to continue working with the SIA and its members to help find and implement effective solutions to this problem.

If you or your staff have any questions or require any additional information, please contact Don Boteler at 202-326-5845 or Larry Maffia at 202-326-5857.

Will all best personal regards,

Matthew P. Fink
President

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