

NASD NOTICE TO MEMBERS 97-78

SEC Approves Rule Relating To Distribution Of Information Concerning NASD Regulation's Public Disclosure Program

Suggested Routing

- Senior Management
- Advertising
- Continuing Education
- Corporate Finance
- Government Securities
- Institutional
- Insurance
- Internal Audit
- Legal & Compliance
- Municipal
- Mutual Fund
- Operations
- Options
- Registered Representatives
- Registration
- Research
- Syndicate
- Systems
- Trading
- Training
- Variable Contracts

Executive Summary

On September 10, 1997, the Securities and Exchange Commission (SEC) approved new National Association of Securities Dealers, Inc. (NASD[®]) Conduct Rule 2280, Investor Education and Protection, which requires certain NASD members to provide customers with the following information in writing not less than once every calendar year: (1) the NASD Regulation, Inc., Public Disclosure Program hotline number; (2) the NASD RegulationSM Web Site address; and (3) a statement regarding the availability of an investor brochure that includes information describing the Public Disclosure Program. The new rule is effective January 1, 1998.

Questions concerning this *Notice* should be directed to Gary L. Goldsholle, Senior Attorney, Office of General Counsel, NASD Regulation, at (202) 728-8104.

Background And Discussion

Under the Public Disclosure Program (Program), NASD Regulation provides certain information regarding the disciplinary history of NASD members and their associated persons in response to written inquiries, electronic inquiries, or telephonic inquiries via NASD Regulation's toll-free telephone listing (1-800-289-9999). In 1995, at the request of Rep. Edward J. Markey (D-MA), the General Accounting Office (GAO) reviewed the effectiveness of the toll-free telephone information service used by NASD Regulation to disseminate information under the Program. The GAO recommended that NASD Regulation publicize and educate investors about the availability of information through the Program. Specifically, the GAO recommended that NASD Regulation "explore other ways of publicizing the hotline to a wider audience of investors, such as including the hotline number on

account-opening documents or account statements, and making disciplinary-related information directly available to investors through the Internet." Pursuant to these recommendations and to enhance public awareness of the Program, NASD Regulation adopted Rule 2280.

NASD Rule 2280(a) requires NASD members that carry customer accounts to provide customers with the following items of information in writing not less than once every calendar year: (1) the NASD Regulation Program hotline number; (2) the NASD Regulation Web Site address; and (3) a statement regarding the availability to the customer of an investor brochure that includes information describing the Program. NASD members may include the required information on customer account statements or in another type of publication. Under NASD Rule 2280(b), members that do not carry customer accounts and do not hold customer funds or securities are exempt from the requirements of NASD Rule 2280(a) because the information required to be furnished under the rule will be provided by the customer's clearing or carrying broker.

The original effective date of Rule 2280 was September 10, 1997. On October 16, 1997, NASD Regulation filed an immediately effective proposed rule change with the SEC postponing the effective date until January 1, 1998, to provide members with sufficient time to comply with the new rule, which operates on a calendar year basis.²

Text Of New Rule

(Note: All rule language is new.)

2280. Investor Education and Protection

(a) Each member shall, with a frequency of not less than once every

calendar year, provide in writing to each customer the following items of information.

(1) NASD Regulation Public Disclosure Program Hotline Number

(2) NASD Regulation Web Site Address

(3) A statement as to the availability to the customer of an investor

brochure that includes information describing the Public Disclosure Program

(b) Notwithstanding the requirement in paragraph (a) above, any member that does not carry customer accounts and does not hold customer funds or securities is exempt from the provisions of this rule.

Endnotes

¹ GAO, *NASD Telephone Hotline: Enhancements Could Help Investors Be Better Informed About Brokers' Disciplinary Records* (August 1996), at 18.

² 62 FR 55295 (October 23, 1997).

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