

RCA – April 1995 – Ask The Analyst – Filing Requirements

Q . We would like to include recommendations of closed-end mutual funds in our list of currently available stocks, but we were concerned that this information would require filing with the NASD. Would you please comment?

A . Advertising and sales literature for closed-end mutual funds trading in the secondary market are not subject to the filing requirements of Article III, Section 35(c)(1) of the Rules of Fair Practice. However, closed-end funds continuously offered by a prospectus are subject to this filing requirement. Specifically, the rule requires all NASD member firms to file their advertising and sales literature on behalf of investment company securities with the NASD Advertising Regulation Department within 10 days of first use. Exemption from this filing requirement does not exempt the material from the content standards of Article III, Section 35(d). In addition, closed-end fund material must be filed in the event of a spot check of a member as discussed in Article III, Section 35(c)(5). Be aware that the exemption from the filing requirement for closed-end mutual funds trading in the secondary market does not extend to public direct participation programs (DPPs) that traded in the secondary market. According to the NASD Direct Participation Programs Committee, communications for these securities should continue to be filed with the NASD within 10 days of first use.