

# NASD NOTICE TO MEMBERS 97-71

## NASD To Deduct Unpaid Arbitration Fees From Member Deposit Accounts

### 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

Effective January 1, 1998, the National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) will deduct delinquent unpaid arbitration fees from member funds maintained in member Central Registration Depository (CRD<sup>SM</sup>) accounts. Members will receive at least two notices that arbitration fees are due and payable as part of the normal billing and collections process. If a payment is received prior to the established deadline, the NASD will not deduct funds from the member's CRD account. Members are responsible for replenishing the funds on deposit to ensure that there are no delays in processing registration applications or any other CRD-related obligation.

Questions regarding this *Notice* may be directed to Deborah Masucci, Vice President and Director, Office of Dispute Resolution, NASD Regulation, Inc., at (212) 858-4400; Todd Diganci, Vice President and Controller, Finance Department, NASD, at (301) 590-6203; or Elliott R. Curzon, Assistant General Counsel, Office of General Counsel, NASD Regulation<sup>SM</sup>, at (202) 728-8451.

### Background

The Office of Dispute Resolution has a substantial and growing problem with unpaid member surcharges and arbitration forum fees owed by members who are or have been involved in arbitration proceedings. Examples of these types of fees are member surcharges assessed to member firms that are named in an arbitration proceeding or to member firms that employed an associated person named in an arbitration proceeding. Another example is a forum fee, which is the hearing cost assessed to a party in an arbitration award.

Member surcharges are assessed and become due and payable when an arbitration complaint is served on the member. Forum fees are assessed and become payable when a case is

completed and the award is served. In the award, the arbitrators will specify how much each party must pay in forum fees. The NASD provides a statement of account to each party showing the fees that are owed.

Many members maintain funds on deposit with the NASD in order to expedite processing of employee registrations, examinations, and fingerprint processing. Increasingly, however, members are asking that on-deposit funds be reallocated for payment of other NASD/NASD Regulation obligations such as Advertising Fees and Gross Assessment Fees, and for purchasing MediaSource<sup>SM</sup> materials such as fingerprint cards or other reference materials. It is appropriate, therefore, for member on-deposit funds to be used for other obligations owed to the NASD.

Accordingly, for cases filed on or after January 1, 1998, the NASD will deduct member surcharges that are more than 60 days past due from the funds that the member maintains on deposit. In addition, beginning with cases that are closed on or after January 1, 1998, the NASD will deduct forum fees that are more than 60 days past due from the funds that the member maintains on deposit. Under the current invoicing and dunning procedures, members will be given sufficient notice of their obligation to permit them to pay or dispute the resulting charge with the Dispute Resolution Department prior to the deduction of funds from their CRD account. Written confirmation of each reallocation will be provided to the member's compliance officer. Members whose account balances are insufficient to cover an unpaid debt, and who do not make other payment arrangements, may have their membership and registration suspended or cancelled pursuant to Article VI, Sec. 3 of the NASD By-Laws.

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