

FOR YOUR INFORMATION

Clarification Of *Special Notice To Members 97-55*

In August 1997, the National Association of Securities Dealers, Inc. (NASD[®]) published *Special Notice to Members 97-55* entitled “New Membership Application Rules, New Code of Procedure and Other New Disciplinary Rules,” which described, among other things, the new Code of Procedure and when such Rules would apply to a disciplinary proceeding. *Special Notice to Members 97-55* provided in paragraph c):

c) Appeals, Reviews. The Rule 9300 Series of the new Code will apply to any appeal, call for review, or review of a decision rendered under new Rule 9268 and new Rule 9269 if the decision is: (a) served on a Respondent on or after August 7, 1997, and (b) appealed, called for review, or reviewed. By doing so, all of the new appellate and review procedural enhancements, with one exception, will apply to a completed “trial-level” proceeding that is appealed, subject to a call for review, or review on or after the effective date of the new Code. The one exception is the right of the Department of Enforcement to appeal or cross-appeal a case, which will not apply. This provision in the new Rule 9300 Series will not apply to any disciplinary proceeding unless the disciplinary proceeding is based upon a complaint authorized on or after August 7, 1997.

The NASD intended that the new Code of Procedure, with the exception noted above regarding the Department of Enforcement’s right to appeal or cross-appeal, would apply to any appeal or review of a “trial-level” decision served on or after August 7, 1997, so that Respondents would receive the benefits of the procedural enhancements as soon as the

new Rules became effective. To clarify that such appeals and reviews shall proceed under the new Code of Procedure, the first sentence of paragraph c) should read:

The Rule 9300 Series of the new Code will apply to any appeal, call for review, or review of a decision if the decision is: (a) served on a Respondent on or after August 7, 1997, and (b) appealed, called for review, or reviewed.

Revisions to the original sentence are noted below:

The Rule 9300 Series of the new Code will apply to any appeal, call for review, or review of a decision ~~rendered under new Rule 9268 and new Rule 9269~~ if the decision is: (a) served on a Respondent on or after August 7, 1997, and (b) appealed, called for review, or reviewed.

Questions may be directed to Sharon Zackula, Assistant General Counsel, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8985 or Katherine Malfa, Chief Counsel, Department of Enforcement, NASD RegulationSM, at (202) 974-2853.

Testing & Continuing Education Communication With Members

Since NASD Regulation’s testing and continuing education program delivery began its transition to the Sylvan Technology Center Network, some processes and/or procedures have changed. In an effort to inform NASD Regulation member firms and candidates of changes, along with future events, Testing & Continuing Education will begin publishing information, including an updated Sylvan Technology Center location list, through the following mediums:

- *Regulatory & Compliance Alert*
- *CRD/PD Bulletin* (formerly *Membership On Your Side*)
- NASDR Web Site

Look for the first Testing & Continuing Education communication to appear in the December issue of the *Regulatory & Compliance Alert*.

For comments, questions or suggestions about topics that you may wish to have covered in upcoming issues, contact:

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