

NASD Notice to Members 99-02

NASD Regulation Withdraws Risk Disclosure Proposal

Suggested Routing

- ☒ Senior Management
- ☐ Advertising
- ☐ Continuing Education
- ☐ Corporate Finance
- ☒ Executive Representatives
- ☐ 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

NASD Regulation, Inc. (NASD RegulationSM) is withdrawing the risk disclosure proposal discussed in *Notice to Members 97-29*. Questions concerning this *Notice* should be directed to Mary Revell, Associate General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8203.

Discussion

Notice to Members 97-29, issued in May 1997, reminded members of their disclosure obligations when marketing mutual funds and other securities. For example, members must disclose the material differences between the risks of uninsured securities products and insured depository products to a customer who is seeking to invest the proceeds of a guaranteed or insured product in an uninsured securities product, such as a mutual fund. Members also are required to disclose all material information to customers when recommending transactions in mutual funds.

The *Notice* also requested public comment on whether NASD Regulation should adopt a rule requiring members to disclose investment risks and the absence of guarantees or insurance related to investing in securities products (Risk Disclosure Rule). In order to ensure that customers are notified of the risks of purchasing uninsured securities products, the Risk Disclosure Rule

would require all members that sell both Federal Deposit Insurance Corporation-insured bank products and uninsured securities products to provide disclosures similar to those required by NASD Rule 2350, the Bank Broker/Dealer Rule, which imposes obligations on member firms selling securities on the premises of depository institutions.

NASD Regulation is formally withdrawing the proposed Risk Disclosure Rule from consideration. Unlike the confusion that arises when a customer purchases a securities product from a broker/dealer operating on bank premises, which may lead the investor to conclude incorrectly that the securities product is insured, we believe there is little likelihood of customer confusion about the insured status of a securities product purchased from a broker/dealer that is not operating on bank premises. Thus, contrary to the situation that gave rise to the Bank Broker/Dealer Rule, there is little need for a Risk Disclosure Rule applicable to firms that are not located on the premises of financial institutions. We also believe that existing disclosure requirements, discussed in *Notice to Members 97-29*, adequately address any concerns raised by customer purchases of uninsured products.

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