

NASD Notice to Members 98-97

Notice Of Increase In Advertising Review Fees

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

On November 2, 1998, NASD Regulation, Inc. (NASD RegulationSM) filed amendments for immediate effectiveness with the Securities and Exchange Commission (SEC) that will amend Section 13 of Schedule A to the By-Laws of the National Association of Securities Dealers, Inc. (NASD[®]) to increase the review charge for advertisements, sales literature, and other such material filed or submitted to the NASD Advertising Regulation Department. The increase is effective on January 1, 1999.

Questions regarding this *Notice* may be directed to Thomas A. Pappas, Director, Advertising Regulation Department, NASD Regulation, at (202) 728-8330, or Robert J. Smith, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8176.

Discussion

The Advertising/Investment Companies Regulation Department (the Department) evaluates member firms' advertisements and sales literature for compliance with applicable rules of the NASD, SEC, Municipal Securities Rulemaking Board, and Securities Investors Protection Corporation. These public communications include print, television, and radio advertisements, or electronic communications such as Web sites. They also include brochures, form letters, direct mail, and telemarketing scripts.

Approximately 1,450 member firms submitted sales material last year, either voluntarily or pursuant to a rule requirement. Significant increases in filing volume and workload have made ever increasing demands on the Department's operations. For example, between 1994 (the last time advertising fees were amended) and 1997, the number of communications reviewed in the filings and

spot check programs increased 43 percent, from 42,681 to 61,096. The Department expects filing volume to continue to increase in subsequent years.

In order to enhance its operations and to continue to provide timely, high-quality reviews, NASD Regulation intends to dedicate additional staff and resources to the Department, as well as to other departments whose programs are related to the regulation of member communications with the public. The cost of the additional staff and resources will be covered by an increase in the basic charge for reviewing submitted material from \$50 to \$75.

Text Of Amendments

(Note: New text is underlined; deletions are bracketed.)

Schedule A to the NASD By-Laws

Section 13—[Service] Review Charge for Advertisement, Sales Literature, and Other Such Material Filed or Submitted

There shall be a [service] review charge for each and every item of advertisement, sales literature, and other such material, whether in printed, video, electronic or other form, filed with or submitted to the Association, except for items that are filed or submitted in response to a written request from the Association's Advertising Regulation Department issued pursuant to the spot check procedures set forth in the Association's Rules as follows: (1) for printed material reviewed, [~~\$50.00~~] \$75.00, plus \$10.00 for each page reviewed in excess of 10 pages; and (2) for video or audio media, [~~\$50.00~~] \$75.00, plus \$10.00 per minute for each minute of tape reviewed in excess of 10 minutes.

Where a member requests expedited review of material submitted to the Advertising Regulation department there shall be a [service] review charge of \$500.00 per item plus \$25 for each page reviewed in excess of 10 pages. Expedited review shall be

completed within three business days, not including the date the item is received by the Advertising Regulation Department, unless a shorter or longer period is agreed to by the Advertising Regulation Department. The Advertising Regulation Depart-

ment may, in its sole discretion, refuse requests for expedited review.

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