

**Securities Industry Association**

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September 10, 1998

Margaret H. McFarland
Deputy Secretary
Securities and Exchange Commission
450 Fifth Street N.W., Stop 6-9
Washington, D.C. 20549

**Re: Release No. 34-40310 relating to proposed amendments to NASD
Rule 2830; File No. SR-NASD-98-14**

Dear Ms. McFarland:

In August 1997 the NASD issued Notice to Members 97-48 which requested comment on an earlier, but similar version of the proposed amendments to Conduct 2830 which appear in Release No. 34-40310.

On October 14, 1997 the Investment Company Committee ("the Committee") of the Securities Industry Association ("SIA")¹ filed a comment letter, which is annexed hereto, with respect to the then proposed amendments. While the Committee supported most of the proposed amendments, it took issue with the proposed requirement that funds employing contingent deferred sales loads ("CDSL") calculate CDSL utilizing a first in, first out ("FIFO") methodology on partial redemptions. The Committee opposed this requirement for a number of reasons including, the fact that it deviated from SEC Rule 6c-10 and denied investors the right to select the shares they wished to sell. In particular, it was pointed out that under certain market conditions it might be more advantageous from a tax standpoint to employ a method other than FIFO. It appears that the NASD has attempted to address the Committee's concerns, to some degree, in the instant proposal, by allowing an alternative calculation method to be utilized on partial redemptions if it would result in a lower CDSL. However, this alternative approach wrongly presumes that the lowest CDSL is the only economic factor of consequence to the investor. In fact, the economic consequences of the redemption of particular shares may, from a tax standpoint be far more significant than the amount of CDSL on the transaction. Therefore, we strongly urge that the Commission not approve the NASD's proposed amendment with respect to CDSL, and instead require that the NASD rule conform to SEC Rule 6c-10 requirements as they relate to CDSL.

We appreciate the opportunity to further comment on the proposed amendments to Conduct

Rule 2830. If you have any questions concerning the contents of this letter or the attachment, please do not hesitate to contact me at 212-848-1715 or [Michael D. Udoff](#) at 212-618-0509.

Sincerely,

Lawrence H. Kaplan
Chairman,
Investment Company Committee\

cc: R. Clark Hooper
Joseph Price, Esq.
Robert Smith, Esq.

Footnotes

¹ The Securities Industry Association brings together the shared interest of nearly 800 securities firms, employing more than 380,000 individuals, to accomplish common goals. SIA members—including investment banks, broker-dealers, and mutual fund companies—are active in all markets and in all phases of corporate and public finance. The U.S. securities industry manages the accounts of more than 50-million investors directly and tens of millions of investors indirectly through corporate, thrift and pension plans and accounts for \$270 billion of revenues in the U.S. economy.