

**Securities Industry Association**

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July 2, 1997

Joan Conley
Office of the Corporate Secretary
NASD Regulation, Inc.
1735 K Street, NW
Washington, DC 20006-1500

Re: NASD Regulation Notice To Members 97-29

Dear Ms. Conley:

The Securities Industry Association's ("SIA")¹ Self-Regulation and Supervisory Practices Committee ("Committee") appreciates this opportunity to comment on the above-captioned Notice To Members ("Notice"). In the Notice, NASD Regulation, Inc. requests comment on the appropriateness of adopting a rule requiring member firms that sell both FDIC-insured and uninsured securities products to make certain disclosures to customers. For the reasons discussed below, the Committee would strongly oppose adoption of such a rule.

The Notice states that the disclosure provision was originally part of a proposed rule governing broker-dealer conduct on the premises of a financial institution.² The bank broker-dealer rule would have required a member to disclose, orally and in writing, at or prior to the time the member opens an account with a customer, that the securities products purchased or sold in a transaction with the member: (1) are not insured by the FDIC or other deposit insurance; (2) are not deposits or other obligations of a financial institution and are not guaranteed by a financial institution; and (3) are subject to investment risks, including possible loss of the principal invested. The rule also would have required the member to make reasonable efforts to obtain from each customer during the account opening process a written acknowledgment of the required disclosures.

The disclosure provision was included in the proposed rule to address concerns over customer assumptions and confusion that the securities purchased from a broker-dealer operating on the premises of a financial institution are either insured or guaranteed against loss of principal. Commenters argued that investors who purchase securities through non-financial institution broker-dealers, especially those that offer FDIC-insured products, would benefit equally from these required disclosures. The Committee disagrees. We believe additional disclosure requirements are unwarranted in light of the extensive disclosures mandated by federal, state, and self-regulatory organization rules.

The Committee believes that existing disclosure requirements are sufficient to address specific concerns about insured versus uninsured products. An additional rule creating an affirmative

requirement to disclose investment risks and the absence or presence of guarantees related to investing in particular products would be redundant and excessive. If the written disclosure is featured prominently, this alone could confuse investors. Moreover, additional information, which presumably would repeat much of the information in existing disclosure documents, coupled with a written acknowledgment from the customer, ceases to be "disclosure" and instead could be construed as a warning. This would only serve to drive investors away.

As noted above, the disclosure provision was originally proposed to address a unique set of circumstances. Even in these circumstances, it is not apparent that investors have been confused or misled. To impose the cost and burden of additional disclosure on all member firms, merely because they may sell insured products in addition to uninsured products, is unjustified absent a showing that the disclosure currently required is ineffective. For those members that do a nominal business in insured products, the added cost and administrative burden of the additional disclosures may preclude them from offering these products.

Thank you for the opportunity to express our views. If you have any questions, or would like to discuss our comments further, please contact the undersigned or Judith Poppalardo, staff advisor to the Committee, at 202-296-9410.

Sincerely,

R. Gerald Baker
Chairman
Self-Regulation and Supervisory Practices Committee

Footnotes

¹ The Securities Industry Association ("SIA") is the trade association representing the business interests of about 760 securities firms in North America. Its members include securities organizations of virtually all types - investment banks, brokers, dealers, and mutual fund companies, as well as other firms functioning on the floors of the exchanges. SIA members are active in all exchange markets, in the over-the-counter markets, and in all phases of corporate and public finance. Collectively, they provide investors with a full spectrum of securities and investment services and account for 90% of securities firm revenue in the United States.

² See Securities Exchange Act Release No. 34-36980; 61 FR 11913.