

**Securities Industry Association**

120 Broadway, New York, NY 10271-0080, (212) 608-1500, Fax (212) 608-1604
1401 Eye Street, NW, Washington, DC 20005-2225, (202) 296-9410, Fax (202) 296-9775
info@sia.com, <http://www.sia.com>

October 14, 1997

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

Re: Notice to Members 97-48

Dear Ms. Conley:

The Investment Company Committee (the "Committee") of the Securities Industry Association ("SIA")¹ is taking this opportunity to comment on proposed amendments to Conduct Rule 2830 as described in Notice to Members 97-48.

General Overview

The proposed amendments among other things, would place caps on fund sales loads in a fund of funds context, specify a first in-first out liquidation requirement with respect to funds subject to contingent deferred sales load ("CDSL") and eliminate duplication of certain Rule 12b-1 fee disclosure. The amendments are predicated, in part, on certain regulatory initiatives adopted or proposed over the last year by Congress and/or the SEC. These include provisions under the National Securities Markets Improvement Act of 1996 ("NSMIA") which liberalized certain regulations on the offering of fund of funds and SEC proposals to modify prospectus disclosures under the Investment Company Act of 1940 ("the Investment Company Act"). The SEC proposals also would require specific disclosure that 12b-1 fees could, over time, exceed the sales charges paid in connection with the purchase of mutual fund shares.

Subject to the qualifications set forth in the following discussion, SIA is generally supportive of the amendments to Rule 2830 as set forth in Notice to Members 97-48.

Fund of Fund Sales Loads

We agree with the general proposition that aggregate sales loads in a fund of funds context should not exceed the maximum percentage limits contained in the Investment Company Rule. We also agree with NASDR that the acquiring and underlying funds should each retain the right to charge appropriate fees so long as the aggregate permitted limit is not exceeded.

Deferred Sales Loads

Most of the proposed amendment relating to deferred sales loads and installment loads are consistent with the 1996 amendments to SEC Rule 6c-10 under the Investment Company Act. For example, under Rule 2830(2)(1)(B)(i), reinvested dividends must be purchased at net asset value. However, the proposed amendments deviate from Rule 6c-10 in one significant respect, i.e. - the order of redemption requirement. Whereas, the SEC amendment eliminated a requirement that shares be redeemed in a particular order, the NASDR amendments would seek to impose a requirement that shares be liquidated in the order purchased, unless it could be established that a different method would result in a lower CDSL. We believe that the SEC position is preferable, and NASDR should not adopt amendments imposing an order of redemption requirement in connection with shares subject to CDSL. It should be noted that fund CDSL procedures are fully disclosed in prospectuses, many funds have invested in or developed costly software to administer methodologies for processing liquidation of shares, and sales and marketing or other business considerations may fully justify the use of a method other than first-in, first-out for calculating CDSL. Furthermore, investors should always retain the right to designate which shares they wish to sell. NASDR should not make the choice for them. In rapidly rising markets the tax savings realized from designating more recently acquired shares for redemption may far outweigh the economic benefit of a lower CDSL. Therefore, NASDR should not implement an order of redemption requirement. If NASDR nonetheless wishes to further consider its proposal, before doing so we would strongly urge it should at least fully explore the tax consequences such a rule would have on investors redeeming mutual fund shares subject to CDSL.

Rule 12b-1 Prospectus Disclosure

We applaud NASDR's desire to eliminate duplicative prospectus requirements from its rules regarding 12b-1 disclosure. However, our support for avoidance of duplication should not be construed as support for the SEC's 12b-1 disclosure proposal in its current form, which would place such disclosure in a separate fund summary rather than with the fee table. Our views in this regard have been previously expressed in a comment letter ² to the SEC regarding its prospectus disclosure proposals.

Summary

SIA supports the adoption of the amendments to Conduct Rule 2830 as set forth in Notice to Member 97-48, except the proposed amendment relating to the order of redemption of fund shares subject to CDSL.

We appreciate the opportunity to comment. If you have any questions concerning the contents of this letter 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:

Joseph Price, Esq.
R. Clark Hooper

Footnotes:

¹ The Securities Industry Association is the trade association representing more than 780 securities firms headquartered throughout North America. Its members include securities organizations of all types--investment banks, brokers, dealers, specialists, and mutual fund companies. SIA members are active in all markets, and in all phases of corporate and public finance. Collectively, they provide investors with a full spectrum of investment services and account for approximately 90% of the securities industry's revenue in the United States.

² Letter to Jonathan G. Katz dated June 6, 1997, regarding "Proposed Rules to Revise Requirements for Mutual Fund Disclosure" Release Nos. IC-22528 and IC-22529.