changed [or expressly disapproved] by the Association, shall be withheld from publication or circulation until any changes specified by the Association has been made or, [in the event of disapproval] if expressly disapproved, until the advertisement has been refiled for, and has received, Association approval. The member must provide with each filing the actual or anticipated date of first use. Any member filing any investment company advertisement or sales literature pursuant to this Subsection shall include a copy of the data, ranking or comparison on which the ranking or comparison is based.

(3) (A) Each member of the Association which has not previously filed advertisements with the Association (or with a registered securities exchange having standards comparable to those contained in this section) shall file its initial advertisement with the Association's Advertising Department at least ten days prior to use and shall continue to file its advertisements at least ten days prior to use for a period of one year. *The member must provide with each filing the actual or anticipated date of first use*.

[(B) Each member which, on the effective date of this section, had been filing advertisements with the Association (or with a registered securities exchange having standards comparable to those contained in this section) for a period of less than one year shall continue to file its advertisements, at least ten days prior to use, until the completion of one year from the date the first advertisement was filed with the Association or such exchange.]

\* (4) Notwithstanding the foregoing provisions, any District Business Conduct Committee of the Association, upon review of a member's advertising and/or sales literature, and after determining that the member has departed and there is a reasonable likelihood that the member will again depart from the standards of this section, may require that such member file all advertising and/or sales literature, or the portion of such member's material which is related to any specific types or classes of securities or services, with the Association's Advertising Department and/or the District Committee, at least ten days prior to use. The member must provide with each filing the actual or anticipated date of first use.

The Committee shall notify the member in writing of the types of

material to be filed and the length of time such requirement is to be in effect. The requirement shall not exceed one year, however, and shall not take effect until 30 days after the member receives the written notice, during which time the member may request a hearing before the District Business Conduct Committee, and any such hearings shall be held in reasonable conformity with the hearing and appeal procedures of the Code of Procedure.

(d) Standards Applicable to Communications With the Public

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## (2) Specific Standards

In addition to the foregoing general standards, the following specific standards apply:

(B) Recommendations: In making a recommendation, whether or not labeled as such, a member must have a reasonable basis for the recommendation and must disclose [the price at the time the recommendation is made, as well as] any of the following situations which are applicable:

(i) That the member usually makes a market in the securities being recommended, or in the underlying security if the recommended security is an option, and/or that the member or associated persons will sell to or buy from customers on a principal basis;

(ii) That the member and/or its officers or partners own options, rights or warrants to purchase any of the securities of the issuer whose securities are recommended, unless the extent of such ownership is nominal;

(iii) That the member was manager or co-manager of a public offering of any securities of the recommended issuer within the last 3 years.

The member shall also provide, or offer to furnish upon request, available investment information supporting the recommendation. *Recommendations on behalf of corporate equities must provide the price at the time the recommendation is made.* 

A member may use material referring to past recommendations if it sets forth all recommendations as to the same type, kind, grade or classification of securities made by a member within the last year. Longer periods of years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation was to be acted upon, and indicate the general market conditions during the period covered.

Also permitted is material which does not make any specific recommendation but which offers to furnish a list of all recommendations made by a member within the past year or over longer periods of consecutive years, including the most recent year, if this list contains all the information specified in the previous paragraph. Neither the list of recommendations, nor material offering such list, shall imply comparable future performance. Reference to the results of a previous specific recommendation, including such a reference in a followup research report or market letter, is prohibited if the intent or the effect is to show the success of a past recommendation, unless all of the foregoing requirements with respect to past recommendations are met.

GOVERNMENT SECURITIES RULES

\* \* \*

Communications With the Public

Sec. 8

## (a) Definitions

(1) Advertisement—For purposes of this section and any interpretation thereof, "advertisement" means material published, or designed for use in, a newspaper, magazine or other periodical, radio, television, telephone or tape recording, videotape display, signs or billboards, motion pictures, telephone directories (other than routine listings), *electronic* or other public media.

(2) Sales Literature—For purposes of this section and any interpretation thereof, "sales literature" means any written or electronic communication distributed or made generally available to customers or the public that does not meet the foregoing definition of "advertisement." Sales literature includes, but is not limited to, circulars, research reports, market letters, performance reports or summaries, form letters, standard forms of option worksheets, telemarketing scripts, seminar texts, and reprints or excerpts of any other advertisement, sales literature, or published article.

## (b) Approval and Recordkeeping

(1) Each item of advertising and sales literature shall be approved by signature or initial, prior to use *or filing with the NASD*, by a registered principal [(or designee)] of the member.

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