

MEMORANDUM

FOR: Wallace H. Fulton May 14, 1962  
FROM: Donald L. Benson  
RE: SEC Hearings -- Week of May 7, 1962

The following questions are an indication of possible areas of interrogation for the NASD when we testify before the special study group. The particular line of questioning contained in the transcript of the hearing sets forth the boundaries in which we will be asked to cover our activities regarding NASD membership, training, and qualification examinations.

May 7, Testimony of Walter Benedick from Investors Planning Corp.

1. In what areas do the Investment Company Institute and the Association of Mutual Fund Planners Sponsors overlap the activities of the NASD? NO
2. Does the Investment Company Institute and the Association of Mutual Fund Planners Sponsors have a code of ethics that is enforceable along the lines of the NASD Rules of Fair Practice? No
3. Does the NASD have any special requirements for those people recruited by its members to train for registered representative? No
4. Does the NASD have a policy or opinion in respect to part-time salesmen? Yes - an opinion
5. Would it be possible for the entire membership of the NASD to successfully operate their businesses if the NASD established a rule prohibiting part-time salesmen? probably yes
6. Does the NASD have any minimum training period before a person can take the examination for registered representative? not at present
7. What are the NASD requirements for certifying the good character of applicants for registered representatives and how are these certifications checked? ~~no part of~~  
had read the part of it
8. Does the NASD supply its member firms with a preliminary check test to be given registered representative trainees? No
9. What is the nature of the training guide or outline, if any, supplied to member firms?
10. Does this outline require a basic course and textbooks to be read. yes

11. What is the percentage of failures of trainees who took the old NASD exam in 1959, 1960, and 1961?
12. What is the percentage of trainees failing the new NASD examination?
13. What is the total number of trainees who took the NASD exam in 1959, 1960, and 1961?
14. How many people who failed the examination the first time in 1959, 1960, and 1961 subsequently took the exam a second time and passed?
15. How many trainees who failed the new NASD examination took it a second time and passed?
16. How many of the total who passed the NASD exam in any given year were mutual fund salesmen?
17. What percentage of failures in any given year were mutual fund salesmen?
18. Does the new examination cover any areas not covered in the old examination and, if so, what?

May 8, Testimony of Hugh Jamieson of King Merritt & Co., Inc.

1. Same question in respect to can a mutual fund operate successfully with a rule prohibiting part-time salesmen.
2. What checks or controls does the NASD have to insure that member firms certified accurately to the background of a registered representative applicant?
3. What is the NASD's opinion of having a central or regional character board for screening registered representative applicants?
4. Does the NASD have any requirements for the training and background for regional or branch managers and other supervisory personnel in branch offices?
5. Does the NASD have any requirement or suggestion for a formal training program?
6. Could a registered representative applicant pass the new NASD examination by reading only the statement of policy, the NASD handbook and other Association publications suggested in the outline?
7. It was brought out again by Mr. Jamieson that the percentage of failures of his salesmen was the same for the old examination and the new examination.
8. Is the NASD Study Guide set up to help an applicant acquire only that knowledge necessary to pass the NASD qualification examination?

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9. It was stated by Mr. Jamieson that the state examinations required more training than the NASD examination.
10. How does the NASD enforce its Rules of Fair Practice pertaining to suitability of investment advice?
11. Should there be a separate test designed for mutual fund salesmen?
12. Do front-end loaded contractual plans fall under the NASD's Five Percent Policy?

May 8, Testimony of Eugene Habas, Senior Vice President of H. W. Long & Co.

1. Since H. W. Long is a wholesaler of mutual funds, Mr. Habas was asked what qualifications of a broker/dealer does his firm require prior to making a selling agreement.
2. Mr. Habas was also asked whether H. W. Long & Co. looked into the selling practices of NASD broker/dealers who sold such funds.
3. How does the NASD check sales literature supplied by wholesalers to broker/dealers who sell mutual funds?
4. Would it be possible for a mutual fund wholesaler to police standards established by the NASD?

May 9, Testimony of William Damroth, President of Templeton, Damroth Corp.

1. Damroth made the statement that mutual fund sales representatives do not buy and sell securities and should be trained and tested apart from any general securities sales requirement.
2. He also felt that fund salesmen should be tested in far more detail about funds.
3. He said that his company trained its men in far more detail than is required to pass the NASD test.
4. He said that the new NASD examination is a test without text and there was no indication of what type of training was required.
5. Damroth said that it takes more training to pass the new NASD examination than it did the old one.
6. Does the NASD check or approve of material used in training courses of its member firms?
7. Does the NASD check literature and reprints of a public relations nature used by the mutual fund industry in an interchangeable manner with selling literature?
8. Does the NASD require any additional training other than that required to pass the examination?

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May 9, Testimony of Ferdinand Nauheim, Partner in Klab, Voorhis & Co.

1. Explain how the NASD reviews training literature, presentation literature, and sales promotion literature, developed by such firms as Klab, Voorhis & Co. and Wissenberg.
2. Does the NASD check audio visual presentations used by registered representatives in selling?

May 10, Testimony of Harold Huber, President of Hamilton Management Corp.

1. Mr. Huber testified that his organization was not a member of the NASD because they would have to honor sales through the NASD dealer organization and they would prefer their own retail set-up.
2. Testimony was further given that mutual funds belonging to the NASD cannot control the sales of funds by member dealers to which they sell.
3. It was also brought out that NASD membership fees are based on the number of salesmen a particular firm has and therefore it would be extremely expensive for an organization such as Hamilton to join the NASD.
4. Mr. Huber brought out that the NASD does not supply study material or a special examination for mutual fund salesmen.
5. Does the NASD have any regulation or authority in respect to licensing of insurance agents and mutual fund salesmer
6. Mr. Huber testified that he considers the Code of Ethics of the Association of Mutual Fund Plan Sponsors binding on his organization but not enforceable in all cases.

May 10, Testimony of Dana Hodgon

1. As a member of the NASD, Mr. Hodgon was asked what type of character requirements does the Association require and how does his firm meet these requirements.
2. Mr. Hodgon testified that his firm has never had a trainee fail the NASD examination.
3. How are the scores of the NASD examination reported to the member firms?
4. Is there any requirement to when a registered representative may open a discretionary account after he begins selling securities?
5. Does the NASD check into investment analysis proposals or consider these proposals as sales literature of mutual funds?

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May 7, Testimony of Phillip Loomis and Allan Conwill

1. Mr. Loomis brought out in his testimony that the present statutory bars against the registration of a broker/dealer or a salesman with the NASD were extremely limited, and in his opinion should be strengthened. He emphasized the fact that the NASD does not individually inquire into the character or reputation of an applicant.
2. Mr. Loomis felt that there should be an established capital requirement for all broker/dealers registered with the SEC.
3. Mr. Conwill testified that the SEC had only limited control and supervision over selling literature and selling aids used by mutual funds.
4. He said that some of it is submitted to the SEC and some submitted to NASD.