

MEMO# 4621

March 23, 1993

SEC PROPOSES OFF-THE-PAGE PROSPECTUS

March 23, 1993 TO: BOARD OF GOVERNORS NO. 21-93 SEC RULES MEMBERS NO. 30-93
DIRECT MARKETING COMMITTEE NO. 21-93 RE: SEC PROPOSES OFF-THE-PAGE PROSPECTUS

The Securities and Exchange Commission recently proposed to amend Rule 482 to permit investors to purchase shares of a mutual fund directly in response to a short-form prospectus, which the Commission called an "off-the-page" prospectus. The proposal would implement the SEC staff's recommendation in its Investment Company Act study, and it resembles the Institute's October submission to the SEC staff. (See Memorandum to Board of Governors No. 76-92, SEC Rule Committee No. 81-92, Direct Marketing Committee No. 41-92, dated October 22, 1992.) A copy of the SEC's proposing release is attached. Description of the SEC's Proposal As recommended by the Institute in its submission, the SEC's proposal would permit the use of off-the-page prospectuses in direct mailings as well as the print media. However, funds could use an off-the-page prospectus only after two years from the date that the advertised shares were first publicly sold. Funds with multi-class or two-tier structures could not use the prospectus, nor could the interval funds that the SEC recently proposed to authorize. As recommended by the Institute, funds could use the off-the-page prospectus without granting a right of rescission to persons investing in response to the off-the-page prospectus. The proposal would require off-the-page prospectuses to contain standardized, core information about the fund, including: (1) the fund's name and type and the adviser's name; (2) the fee table and fee table examples called for by Form N-1A; (3) legends concerning sales loads; (4) the fund's historical performance; (5) the fund's portfolio turnover rate; (6) the fund's investment objectives and policies and principal risk factors; (7) material tax consequences of investing in the fund; (8) a statement of the purpose of 12b-1 fees (if applicable); (9) a description of any restrictions or charges on redemption; and (10) material legal proceedings. As recommended by the Institute, the off-the-page prospectus could contain information other than that which is required by the rule (as long as the substance of the information also is in the full Section 10(a) prospectus). The off-the-page prospectus would be a Section 10 prospectus for purposes of the prospectus liability provisions of Section 12(2) of the Securities Act. The application accompanying the off-the-page prospectus would contain a box that investors could check to request the statutory prospectus before investing. In all cases, the statutory prospectus would have to be delivered with the confirmation of the sale. The proposal would require that an off-the-page prospectus be pre-filed with the NASD (or the SEC in the case of nonmembers) for one year after its first use. In addition, the proposal would require that all off-the-page prospectuses be filed with the SEC within three days after their first use. Requests for Comment The SEC requested comment on numerous issues, including whether use of off-the-page prospectuses should be prohibited in direct mail advertisements and the appropriateness of

the two- year seasoning requirement. The SEC also requested comment on the disclosure that the proposal would require in an off-the-page prospectus and the proposed filing requirements. The proposal has a ninety-day comment period. Craig S. Tyle Vice President - Securities Attachment

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