

MEMO# 3090

September 16, 1991

SEC PROPOSES TEMPORARY RULES TO IMPLEMENT BROKER-DEALER RISK ASSESSMENT PROVISIONS OF MARKET REFORM ACT

September 16, 1991 TO: SEC RULES COMMITTEE NO. 55-91 UNIT INVESTMENT TRUST COMMITTEE NO. 30-91 BROKER/DEALER ADVISORY COMMITTEE NO. 31-91 INSURANCE BROKER-DEALER ADVISORY COMMITTEE NO. 10-91 RE: SEC PROPOSES TEMPORARY RULES TO IMPLEMENT BROKER-DEALER RISK ASSESSMENT PROVISIONS OF MARKET REFORM ACT

As we previously informed you, the Market Reform Act of 1990 added a new Section 17(h) to the Securities Exchange Act of 1934 authorizing the SEC to adopt rules requiring registered broker-dealers to maintain certain records and make certain reports regarding the activities and financial condition of affiliated firms that could have a material adverse impact on such registered broker-dealers. The SEC recently proposed temporary rules, described below, to implement Section 17(h) of the 1934 Act. A copy of the proposing release is attached. Proposed Rule 17h-1T would require registered broker-dealers to maintain and preserve certain information concerning each entity deemed a "Material Associated Person" (as defined in the proposed rules) of such broker-dealers. Such information would include an organizational chart of the holding company structure, specific types of risk management policies, records describing material pending legal proceedings, capital adequacy information and financial information. Proposed Rule 17h-2T would require registered broker-dealers to file quarterly reports on Form 17H summarizing the information required to be maintained pursuant to Rule 17h-1T. The proposed rules contain exemptions for any broker or dealer that is exempt from the provisions of Rule 15c3-3 under the 1934 Act (the "customer protection rule") and that limits its activities to, among other things, the "purchase, sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company. . . . and the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies." The Institute had submitted a letter to the SEC's Division of Market Regulation requesting an exemption under Section 17(h) of the Market Reform Act for any registered broker-dealer engaged in underwriting only securities issued by open-end investment companies or unit investment trusts from the requirements of Section 17(h) and any rules thereunder. (See Memorandum to SEC Rules Committee No. 2-91 and Unit Investment Trust Committee No. 1-91, dated January 4, 1991.) The proposed exemption appears to be consistent with the Institute's request. Comments on the proposed rules must be filed by November 5, 1991. If you have any comments, particularly

with respect to the scope of the exemption, please call me at 202/955-3514. Frances M. Stadler Assistant General Counsel Attachment

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