

MEMO# 8908

May 20, 1997

SEC RESPONSE TO CONGRESSMAN MARKEY

May 20, 1997 TO: BOARD OF GOVERNORS No. 32-97 RE: SEC RESPONSE TO CONGRESSMAN
MARKEY _____ As

reported at the May 7 Board of Governors Meeting, Congressman Edward Markey transmitted a series of questions to SEC Chairman Arthur Levitt following a recent authorization hearing. The thirty-five questions, which covered a broad range of topics, included three questions on mutual funds, and two on investment advisers. Enclosed are Chairman Levitt's responses to the questions concerning mutual funds and investment advisers. Mutual Funds The questions on mutual funds concerned fees and expenses. Chairman Levitt's response emphasized the strengths of mutual fund disclosure and the importance of shareholder education. He observed that "fund directors generally are conscientious and thorough in their evaluation and annual approval of ... advisory contracts and ... fee arrangements." The response also noted the failings of published data about mutual fund expenses that do not take into account changes in the load structures of mutual funds over time. Investment Advisers With regard to investment advisers, Congressman Markey requested an update on the SEC's proposal to enhance adviser disclosure of soft dollar practices. Chairman Levitt noted that the Division of Investment Management has determined not to recommend that the proposal be adopted, due to concerns that the proposed disclosure would not be useful to investors and could harm advisers competitively. Another question related to the Commission's proposal to codify its long-standing interpretations regarding an investment adviser's suitability obligations. The response stated that the rule proposal has not been withdrawn, and noted that failure to adopt the rule does not diminish an adviser's obligation to render suitable advice to its clients. Matthew P. Fink President Enclosure