

**MEMO# 2978**

August 1, 1991

## **INSTITUTE SUBMITS COMMENTS ON PROPOSED MASSACHUSETTS ROLL- UP REGULATION**

August 1, 1991 TO: STATE SECURITIES MEMBERS NO. 29-91 RE: INSTITUTE SUBMITS  
COMMENTS ON PROPOSED MASSACHUSETTS ROLL- UP REGULATION

The Institute submitted the attached comment letter to the Massachusetts Securities Division regarding proposed regulation 950 CMR 13.305(C) which would provide grounds for denying the registration of securities of a direct participation program if the program fails to provide for either supermajority votes with regard to certain roll-up or exchange transactions or fails to provide appraisal rights for dissenters in such transactions. As drafted, the proposed regulation would apply to limited partnerships, business trusts or similar direct participation programs. Since many mutual funds are organized as Massachusetts business trusts, it is conceivable that the proposed regulation may be construed to apply to mutual funds. In its comment letter, the Institute noted that given the extensive and detailed regulation mutual funds are subject to under the 1940 Act, the proposed regulation would not provide any additional protection to investors. The Institute therefore recommended that a definition of "direct participation program" be included in the regulation in order to avoid any possible confusion that the provisions of the regulation applied to mutual funds. \* \* \* We will keep you advised of developments. Patricia Louie Assistant General Counsel Attachment

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