

MEMO# 13744

July 18, 2001

INSTITUTE LETTER TO SEC RECOMMENDING AMENDMENTS TO RULE 482

[13744] July 18, 2001 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 11-01 SEC RULES COMMITTEE No. 59-01 RE: INSTITUTE LETTER TO SEC RECOMMENDING AMENDMENTS TO RULE 482 As we have previously informed you, the Securities and Exchange Commission is considering amendments to Rule 482 to, among other things, address concerns about the “currentness” of performance information in mutual fund advertisements.¹ The Institute recently sent the attached letter to the SEC, which provides our proposed recommendation for addressing this issue. The letter is substantially similar to the draft letter circulated on July 2, 2001, with one exception noted below. The Institute’s letter recommends that the staff amend Rule 482 to require narrative disclosure alerting investors to potential changes in advertised returns and directing them to a source for more current performance data, such as a web site or toll-free telephone number. The letter also recommends that funds be required to provide average annual total return information for one, five and ten year periods current to at least the most recent month end via telephone, web site, or both, at the fund’s discretion. Additionally, to ensure that this disclosure will be clearly visible to investors, the letter recommends that it be included in the body of an advertisement, and not in a footnote, and that it must appear in close proximity to the presentation of the performance numbers. The final letter, however, does not recommend that the narrative disclosure appear in a different typeface (e.g., bold or italics) if it does not stand alone, but is part of a paragraph. The letter also presents arguments against amending Rule 482 to require performance information that is current to the most recent month end prior to the submission deadline for a particular publication. Specifically, the letter argues that a month-end requirement would: (i) increase costs and create coordination and distribution difficulties, as well as additional compliance burdens for funds; (ii) seriously erode the comparability across different funds that is generally provided by standardized quarter-end return numbers; and (iii) would not provide much, if any, additional investor protection as compared to our proposal. Doretha VanSlyke Zornada Assistant Counsel Attachment 1 See Memorandum to Advertising Compliance Advisory Committee No. 7-01 and SEC Rules Committee No. 51-01, dated July 2, 2001. 2Attachment (in .pdf format)