

MEMO# 2963

July 30, 1991

INSTITUTE TESTIFIES IN SUPPORT OF THE "FAIR TRADE IN FINANCIAL SERVICES ACT OF 1991"

July 30, 1991 TO: BOARD OF GOVERNORS NO. 55-91 SEC RULES COMMITTEE NO. 43-91
INTERNATIONAL COMMITTEE NO. 17-91 RE: INSTITUTE TESTIFIES IN SUPPORT OF THE "FAIR
TRADE IN FINANCIAL SERVICES ACT OF 1991"

_____ The Institute testified yesterday before the Subcommittee on Trade of the House Committee on Ways and Means in support of Title II of H.R. 991, the "Fair Trade in Financial Services Act of 1991." Copies of the Institute's written statement and oral testimony are attached. The proposed legislation is identical to Title IV of S. 347, on which the Institute testified before the Subcommittee on Economic Stabilization of the House Committee on Banking, Finance and Urban Affairs last April. (See Memorandum to Board of Governors No. 28-91, SEC Rules Committee No. 24-91 and International Committee No. 5-91, dated April 29, 1991.) In addition, the Institute testified in favor of an earlier version of the same legislation before the Senate Banking Committee last year. (See Memorandum to Board of Governors No. 25-90, SEC Rules Members No. 27-90 and International Funds Task Force No. 4-90, dated April 6, 1990.) As you may recall, the bill would, among other things, authorize the Securities and Exchange Commission to deny registration as an investment adviser to a person from a foreign country that, according to a finding by the Treasury Department, discriminates against U.S. advisers by failing to offer the same competitive opportunities, including effective market access, as are available to domestic investment advisers. The Institute's testimony points out that although foreign investment advisers receive national treatment and equal access to the market in the U.S., American advisers are not always granted equal market access abroad, as illustrated by the experience of U.S. advisers in Korea and Japan. The testimony notes that U.S. advisers generally have been accorded national treatment with respect to managing European funds to be marketed within the European Community, although the marketing of U.S. funds overseas has proven more difficult. The testimony states that the authority that would be provided to the U.S. government under the Fair Trade in Financial Services Act would help preserve national treatment for U.S. advisers where it currently is granted, and would foster the opening of global mutual fund and investment advisory markets to effective and equitable international competition. We will keep you informed of developments. Frances M. Stadler Assistant General Counsel Attachment

should not be considered a substitute for, legal advice.