MEMO# 4999

July 21, 1993

INSTITUTE GUIDELINES ON BANK SALES OF MUTUAL FUNDS

July 21, 1993 TO: BANK INVESTMENT MANAGEMENT MEMBERS NO. 16-93 BOARD OF GOVERNORS NO. 63-93 SEC RULES COMMITTEE NO. 66-93 TASK FORCE ON BANK SALES ACTIVITIES RE: INSTITUTE GUIDELINES ON BANK SALES OF MUTUAL FUNDS ____ As you may know, the federal banking regulators are in the process of drafting additional regulations or policy statements concerning bank sales of mutual funds. In order to encourage uniform standards, the Institute recently submitted the attached proposed guidelines to the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Securities and Exchange Commission, and the National Association of Securities Dealers, Inc. The introduction to the guidelines expresses the Institute's support for a legislative solution that would provide comprehensive financial services reform, including repeal of the exemption of banks from the definition of "broker" and "investment adviser" under the federal securities laws and a requirement that all bank sales occur through separately registered broker-dealer affiliates. In the absence of such legislative reform, the Institute's guidelines principally recommend: (1) prominent disclosure of the noninsured nature of mutual fund shares in prospectuses and sales materials; (2) that regulators not require disclosure of a bank's "dual role" as adviser to a fund and to customers (beyond the requirements of SEC Form N-1A); (3) additional NASD guidance on disclosure in instances in which customers with maturing CDs are solicited to invest in mutual funds and a statement by the federal banking agencies that bank employees who are not associated with NASD members should provide similar disclosure; (4) in general, separately identified locations for deposit-taking and investment functions in banks; (5) in general, a prohibition on teller sales to bank customers; (6) training programs for sales representatives and employees with limited involvement in the sales effort; (7) uniform policies concerning compensation arrangements based on NASD standards; and (8) restrictions on the payment of referral fees. Thomas M. Selman Assistant Counsel Attachment