

**MEMO# 5082**

August 20, 1993

# **INSTITUTE COMMENTS ON NASAA REVISED TELEPHONE "TRANSACTION GUIDELINES"**

August 20, 1993 TO: OPERATIONS COMMITTEE NO. 27-93 SEC RULES COMMITTEE NO. 74-93  
STATE LIAISON COMMITTEE NO. 32-93 TRANSFER AGENT ADVISORY COMMITTEE NO. 43-93  
RE: INSTITUTE COMMENTS ON NASAA REVISED TELEPHONE TRANSACTION GUIDELINES

\_\_\_\_\_ As we previously advised you, the NASAA Investment Companies Committee re-issued for public comment revised "Proposed Guidelines for Telephone Transactions" ("Revised Proposal"). The Revised Proposal provides that if a mutual fund disclaims liability for losses due to unauthorized or fraudulent telephone instructions, certain disclosures would have to be included in the fund's prospectus and application. (See Memorandum to Operations Committee No. 23-93, SEC Rules Committee No. 61-93, State Liaison Committee No. 26-93 and Transfer Agent Advisory Committee No. 38-93, dated July 9, 1993.) In its comment letter, the Institute questions the need for the Revised Proposal, particularly in light of the position taken by the Division of Investment Management of the Securities and Exchange Commission with respect to disclaimers of liability for losses resulting from unauthorized telephone transactions. The letter notes, however, that should a determination be made by the NASAA Committee that the Revised Proposal is necessary for the protection of investors, such should be amended to require a "general" description of the procedures the investment company follows for telephone transactions. The letter also recommends that the requirements set forth in the Revised Proposal be applied prospectively and uniformly by the states and that funds be allowed to include the disclosure in the next regular printing of the prospectus and application after adoption of the Revised Proposal by NASAA members. A copy of the Institute's comment letter is attached. It is our understanding that members of NASAA will vote on whether to adopt such at the NASAA Fall Conference in September.

Patricia Louie Associate Counsel Attachment