

MEMO# 9137

August 14, 1997

MEETING TO DISCUSS POSSIBLE INSTITUTE RESPONSE TO UK INTERNET POSITION ANNOUNCEMENT

[9137] August 14, 1997 TO: INTERNATIONAL COMMITTEE No. 29-97 ADVERTISING
SUBCOMMITTEE No. 29-97 RE: MEETING TO DISCUSS POSSIBLE INSTITUTE RESPONSE TO UK
INTERNET POSITION ANNOUNCEMENT

A meeting has been scheduled for September 5, 1997 at the Institute to discuss what, if any, action the Institute should take in response to a recent position announcement by United Kingdom regulators on internet access to offshore fund marketing materials. The meeting will begin at 10 AM and will be held in the David Silver Conference Room. Lunch will be served following the meeting. As you may be aware, the Securities Investment Board (SIB) and Investment Management Regulatory Organization (IMRO) have taken the position that material that constitutes an "investment advertisement" will be deemed issued in the UK if it is possible to view it on a screen in the UK. In the attached release to member firms, IMRO focused on the application of this position to marketing offshore collective investment schemes. The IMRO release states that internet advertisements for funds that are not registered in the UK should not be accessible to retail UK investors. It further states that funds should consider whether it is feasible to restrict access to this material, by use of pass-words or a customer status questionnaire. At this point, it is not clear what specific internet screening procedures UK regulators might find to be sufficient. As a result, the Institute is considering whether it would be advisable to seek further clarification from UK regulators with a view to obtaining agreement on specific types of procedures that would be feasible for funds and meet regulators' concerns. During the meeting on September 5, 1997 we would like to discuss: (1) what procedures funds currently use to assure that internet sites are not used to advertise or sell fund shares to investors in foreign jurisdictions in which the fund is not authorized for sale; (2) what specific difficulties funds anticipate in complying with the UK position; (3) whether there are other procedures funds feasibly could use to assure that access to fund marketing information on the internet is provided only to investors in jurisdictions where it is permissible to advertise the fund to retail investors; Alternatives to consider, in order of difficulty, might include: the addition of multiple legends stating that access to prospectuses and marketing information is not intended for non-US investors; the addition of pages requiring the reader to confirm that he or she is a US resident (or is not UK-based) and information on any alternative sites where non-US investors can access information on investment options the firm is authorized to advertise in the investor's country; the addition of a page requiring investors to provide their names and addresses as a condition for access to prospectuses and marketing information, so that funds can deny access to investors in countries where advertising is

not permitted. (4) whether the Institute should seek agreement from UK regulators as to internet procedures that would be feasible for the industry and meet regulators' concerns and, if so, what those procedures should be. (5) whether there are other jurisdictions where Institute members have encountered problems with internet regulatory requirements. Please use the attached response form to indicate whether you or another member of your organization will attend the meeting on September 5, 1997. Please feel free to contact me with any questions. I can be reached by phone at (202) 326-5826 or by fax at (202) 326-5839. Mary S. Podesta Associate Counsel - International Attachment (in .pdf format)

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