

MEMO# 3605

March 30, 1992

GERMAN FINANCIAL MARKETS REGULATION

- 1 - March 30, 1992 TO: INTERNATIONAL MEMBERS NO. 6-92 INVESTMENT ADVISER
MEMBERS NO. 13-92 RE: GERMAN FINANCIAL MARKETS REGULATION

Counsel to the Institute has provided information about proposals issued by Germany's Ministry of Finance in January that would reform the German financial markets. The Ministry plans to introduce legislation in the near future to implement the proposals. The proposals deal primarily with the structure and supervision of the German stock exchanges, but also affect the German mutual fund industry. The main features of the January proposals are: 1) the introduction of money market funds in Germany, 2) creation of a national stock exchange, 3) creation of a central exchange commission as a national regulatory body, and 4) changes in the methods of trading.

A. Introduction of Money Market Funds German funds currently may invest only up to 49% of their assets in money market instruments. The Ministry proposal would eliminate this cap and allow true money market funds to be sold in Germany. Money market funds historically have been opposed by German banks, which fear an erosion both of their control over the money supply and their deposit base. Recent information from counsel to the Institute suggests that the Ministry may abandon its efforts to introduce money market funds due to strong opposition once again from the German banking industry.

B. Structure of the German Stock Exchanges There are eight regional stock exchanges in Germany, each of which is subject to separate local supervision. The Ministry proposes a national exchange established and maintained by a corporation in which all of the regional exchanges will become stockholders.

C. Stock Exchange Supervision - 2 - Current stock exchange supervision is done on a regional basis and the Ministry believes that there is insufficient supervision of trading practices such as insider trading. The Ministry intends to set up a central exchange commission with broad regulatory powers, one of the stated purposes of which will be to facilitate the international exchange of information. The central exchange commission will have investigative authority, including the right to monitor trading. Creation of this central authority will be accompanied by a number of substantive changes. For example, new criminal sanctions against insider trading will be introduced, as well a new requirement to disclose to the German stock exchange large transactions in securities of quoted companies.

D. Methods of Trading Trading in Germany today is done almost exclusively on the floor of an exchange. Trading is done by auction without marketmakers, and the officially quoted price of a security is determined by a small group of Kursmaklers (price brokers) appointed by the regional exchange supervisors. The Ministry intends to introduce computerized trading, a proposal that is being met with opposition from the Kursmaklers. * * * * It is our understanding that the Ministry also intends to introduce legislation regulating investment services even if the

European Community is unable to reach agreement on the terms of the proposed Investment Services Directive. Details regarding the scope of the investment services legislation likely will remain unsettled pending the outcome of the proposed Directive. We will keep you informed of further developments. Angela C. Goelzer Assistant Counsel - International

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