

MEMO# 7962

June 11, 1996

POSSIBLE REQUEST FOR RELIEF FROM NEW WIRE TRANSFER RULES FOR TRANSFER AGENTS ORGANIZED AS TRUST COMPANIES

1 See Memorandum to Compliance Committee No. 9-96, Operations Committee No. 7-96, SEC Rules Members No. 18-96 and Transfer Agent Advisory Committee No. 20-96, dated April 16, 1996. June 11, 1996 TO: COMPLIANCE COMMITTEE No. 14-96 OPERATIONS COMMITTEE No. 9-96 SEC RULES COMMITTEE No. 60-96 TRANSFER AGENT ADVISORY COMMITTEE No. 32-96 RE: POSSIBLE REQUEST FOR RELIEF FROM NEW WIRE TRANSFER RULES FOR MUTUAL FUND TRANSFER AGENTS ORGANIZED AS TRUST COMPANIES

As we previously informed you, the Federal Reserve Board and the Treasury Department adopted recordkeeping and other requirements with respect to certain wire transfers that became effective on May 28, 1996.¹ The rules apply to "financial institutions," which are defined to include, among others, a bank, a broker or dealer in securities, and "a person engaged in the business of transmitting funds." As indicated earlier, a Treasury Department official confirmed that the term "financial institution" does not include a mutual fund transfer agent. He noted, however, that a transfer agent would be considered a "financial institution" for this purpose if it is also a bank or a broker-dealer. The Institute recently contacted the Treasury Department to inquire about the possibility of obtaining exemptive relief from the wire transfer rules for mutual fund transfer agents that are organized as trust companies. (Such transfer agents are "financial institutions" under the rules because trust companies come within the definition of a "bank.") Arguably, a determination of whether the rules apply to a mutual fund transfer agent should not depend solely upon the transfer agents form of organization, which is the result under the rules as drafted. The Treasury Department expressed its willingness to consider a request for such relief, if adequate supporting information could be provided. Such information would include, for example, the reasons for choosing to organize as a trust company, the scope of the companys authority (i.e., any powers in addition to transfer agent functions), and how and by whom the company is regulated. The Institute is considering whether to go forward with an exemptive request to the Treasury Department. Please call me at (202) 326-5822 or Justine Phoenix at (202) 326-5850 by Thursday, June 20th if you would like the Institute to seek exemptive relief from the wire transfer rules for mutual fund transfer agents that are organized as trust companies. Frances M. Stadler Associate Counsel

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