

MEMO# 3660

April 1, 1992

RECENT OCC INTERPRETATIONS

April 1, 1992 TO: INSTITUTIONAL FUNDS COMMITTEE NO. 4-92 RE: RECENT OCC INTERPRETATIONS _____ Attached are two recent OCC interpretive letters that may be of interest to institutional funds. Investment Securities Letter No. 61 concerned a complaint made about a mutual fund advertisement alleging that it did not disclose that the advertised rate of return was subject to change and did not disclose fees involved with an investment in the fund. The Letter noted that "[w]hile bank-administered mutual funds are not per se subject to NASD standards in regard to advertising, they provide useful guidance for banks advertising mutual fund products to avoid potential violations of the anti- fraud provisions of the Federal securities laws." The Letter concluded that the disclosures concerning fees and the rate of return being subject to change in the advertisement in question appeared to be in compliance with applicable federal law; however, it noted that the advertisement should have disclosed that the mutual fund investments were not protected by federal deposit insurance. Trust Interpretive Letter No. 262 concerned a bank that proposed to purchase assets of a collective investment fund at a price in excess of their fair market value in order to assist with the orderly liquidation of that fund. The OCC staff stated that property held by a bank as fiduciary cannot be transferred to the bank unless the bank has incurred liability as fiduciary and that purchasing the property at above-market prices would have an adverse effect on the bank and constitute a dissipation of corporate assets, which may lead the OCC to find the practice to be unsafe and unsound. Craig S. Tyle Deputy General Counsel Attachment

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