

MEMO# 1462

October 10, 1989

SEC PARTICIPATION IN REORGANIZATION PROCEEDINGS

October 10, 1989 TO: SEC RULES COMMITTEE NO. 60-89 RE: SEC PARTICIPATION IN REORGANIZATION PROCEEDINGS

The SEC has issued a release seeking comments on the scope of its participation in bankruptcy proceedings under Chapter 11 of the Federal Bankruptcy Code. Section 1109(a) of the Bankruptcy Code authorizes the SEC to appear before federal courts in reorganization proceedings. The SEC is seeking comment on the impact of its participation on public investors and other parties, and whether investor committees effectively protect the interests of security holders. The SEC is also requesting comment on the desirability of legislative changes in this area. Some comment items may be of special interest to Institute members. The SEC is requesting comment on whether it should adopt a rule or issue a release that would approve the use of Chinese walls to avoid liability for trading decisions made by an institutional investor's trading department while that institution is serving on an investor committee. (This was proposed last year by the Council of Institutional Investors as a means of encouraging participation by institutions on investor committees.) The SEC is also seeking comments on the role of "recovery funds", which invest in the securities of companies undergoing reorganization, in the bankruptcy process. Comments are due November 15, 1989. A copy of the release is attached. Craig S. Tyle Associate General Counsel Attachment

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