

**MEMO# 1886**

May 2, 1990

## **FED ORDER PERMITTING BROKERAGE OF AFFILIATED FUNDS**

May 2, 1990 TO: BOARD OF GOVERNORS NO. 34-90 SEC RULES COMMITTEE NO. 25-90 RE: FED ORDER PERMITTING BROKERAGE OF AFFILIATED FUNDS

In an order issued April 23, 1990, the Federal Reserve Board approved the application of a bank holding company (Fleet/Norstar) to acquire assets of a securities broker and thereby engage in retail securities brokerage activities. The Institute had filed a comment letter on the application in which we stated that, to the extent the holding company was requesting authority to broker securities issued by affiliated investment companies, such activities were contrary to law. In its order, the Federal Reserve Board stated that the holding company, through its brokerage subsidiary, could broker shares issued by investment companies advised by the holding company's subsidiary bank (or a subsidiary of the bank). The Board stated that its interpretive rule that prevents a bank holding company from engaging in the sale or distribution of securities for any investment company for which it acts as investment adviser does not apply where the bank serves as adviser, since Section 4(c)(8) of the Bank Holding Company Act "does not empower the Board to authorize activities for banks". (The Board had reached a similar conclusion in an earlier order, Norwest Corporation. See Memorandum to Board of Governors No. 79-89 and SEC Rules Committee No. 82-89, dated December 29, 1989.) As in Norwest, the Board noted that the broker would be acting only as agent and would not underwrite or deal in securities. The Board also noted that the broker committed that it would make certain disclosures to customers regarding securities of affiliated investment companies, including that the securities are not obligations of the bank or an affiliate of the bank and are not insured by the FDIC. The Board also repeated its statement in Norwest that it was "considering seeking public comment" on revising its interpretive rule governing the sale of affiliated investment company securities. A copy of the Board's order is attached. We will keep you informed of developments. Craig S. Tyle Associate General Counsel Attachment