

MEMO# 4548

March 2, 1993

INSTITUTE SUBMITS COMMENTS ON PROPOSED NASAA TELEPHONE TRANSACTION GUIDELINES

March 2, 1993 TO: OPERATIONS COMMITTEE NO. 7-93 SEC RULES COMMITTEE NO. 16-93
STATE LIAISON COMMITTEE NO. 11-93 TRANSFER AGENT ADVISORY COMMITTEE NO. 15-93
RE: INSTITUTE SUBMITS COMMENTS ON PROPOSED NASAA TELEPHONE TRANSACTION
GUIDELINES _____

The Institute submitted the attached comment letter to the NASAA Investment Companies Committee on the proposed "Guidelines for Telephone Transactions" ("Guidelines"). As proposed, the Guidelines would require compliance with certain "minimum standards and requirements" if a mutual fund disclaims strict liability for acting upon telephone transactions. According to the Guidelines, shareholders must elect telephone services and be given the opportunity of selecting a personal password, identification number or other form of identification. (See Memorandum to Operations Committee No. 1-93, SEC Rules Committee No. 5-93, State Liaison Committee No. 1-93, and Transfer Agent Advisory Committee No. 4-93, dated January 15, 1993.) In its comment letter, the Institute questioned the need for the Guidelines inasmuch as safeguards currently exist to protect investors against fraudulent telephone transactions and disclosure with respect to the telephone service as well as the fund's policy with respect to liability in the event of a fraudulent telephone exchange or redemption, is already required to be included in mutual fund prospectuses. The Institute further noted that it is unaware of any investor complaints received by any state or mutual fund complex with respect to any losses suffered by shareholders as a result of the telephone service. The letter goes on to detail the costs, both to shareholder goodwill and actual dollar costs, that would be incurred to require shareholder election of telephone services and shareholder selection of an identity test. The Institute recommended as an alternative to the Guidelines, that the NASAA Committee monitor the current existing procedures for telephone services and that to the extent losses do arise as a result of funds permitting shareholders to conduct business over the telephone, proposals could be considered to specifically address the cause for such losses at that time. An open meeting of the NASAA Investment Companies Committee will be held on Monday, March 8, 1993 in Palm Desert, California to discuss the proposed Guidelines. The meeting will be held from 4:00 - 6:00 p.m. in Salons H and I at the Marriott Desert Springs. Please contact me (if you have not already done so) if you, or another individual from your complex, plan to attend this meeting. My direct telephone number is 202/955-3517. Patricia Louie Associate Counsel Attachment

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