

MEMO# 3126

September 24, 1991

INSTITUTE COMMENT LETTER ON PROXY REFORM

September 24, 1991 TO: SEC RULES COMMITTEE NO. 60-91 INVESTMENT ISSUES COMMITTEE NO. 16-91 INVESTMENT ADVISERS COMMITTEE NO. 49-91 CLOSED-END FUND COMMITTEE NO. 24-91 RE: INSTITUTE COMMENT LETTER ON PROXY REFORM

Attached is a copy of the Institute's comment letter to the SEC on the SEC's proposed amendments to the proxy rules under the Securities Exchange Act of 1934, which were proposed in June. (See Memorandum to SEC Rules Committee No. 35-91, Investment Issues Committee No. 4-91, Investment Advisers Committee No. 25- 91 and Closed-End Fund Committee No. 14-91, dated June 19, 1991.) The Institute's principal comments concern the proposed amendment to allow securityholders open access to shareholder lists for purposes of making solicitations. The letter opposes applying this amendment to mutual funds on the grounds that mutual fund shareholders differ in many important respects from stockholders of publicly traded corporations. These include that a fund's shareholders constitute the customers of the fund's adviser, in which the adviser has a proprietary interest, and that mutual fund shareholders have greater privacy interests with respect to their account information. The letter also argues that certain provisions of the Investment Company Act satisfactorily respond to the policy concerns that underlie the proposed rule change. The letter also states that the alternative suggested in the Commission's release -- allowing registrants to retain control over their shareholder lists if they agree to assume the costs of mailing the materials -- is inadequate since it would expose funds and their shareholders to potentially unlimited costs. The SEC had also proposed an exemption from the proxy rules for certain solicitations by disinterested persons. The Institute's letter opposed the proposal and instead recommended a narrower exemption, which would exempt only those communications disseminated to institutional investors. The letter also contained a technical comment concerning the status of "interested persons" of investment companies (as defined in the 1940 Act) as "disinterested persons" for purposes of the exemption. We will keep you informed of developments. Craig S. Tyle Associate General Counsel

Attachment