

MEMO# 9317

October 8, 1997

SEC ADOPTS RULES REQUIRING TRANSFER AGENTS TO SEARCH FOR LOST SHAREHOLDERS

[9317] October 8, 1997 TO: OPERATIONS MEMBERS No. 20-97 TRANSFER AGENT ADVISORY COMMITTEE No. 53-97 SEC RULES MEMBERS No. 76-97 INVESTMENT ADVISER MEMBERS No. 43-97 COMPLIANCE ADVISORY COMMITTEE No. 29-97 RE: SEC ADOPTS RULES REQUIRING TRANSFER AGENTS TO SEARCH FOR LOST SHAREHOLDERS

The Securities and Exchange Commission recently adopted Rules 17Ad-17 and 17a-24 under the Securities Exchange Act of 1934. Rule 17Ad-17 requires transfer agents to conduct searches to locate lost shareholders, to maintain written procedures which describe the transfer agents methodology for complying with the Rule, and to maintain records demonstrating compliance with the Rule. Rule 17a-24 requires transfer agents to file annually lost shareholder information on Form TA-2. Additionally, Rule 17Ad-7 was amended to require transfer agents to maintain records required by Rule 17Ad-17. Rules 17Ad-17 and 17Ad-7 will be effective December 8, 1997. Rule 17a-24 and the information reporting requirement on Form TA-2 will be effective February 4, 1998. The final rules reflect many of the Institutes comments on the rules as proposed. The following is a summary of the major points of Rules 17Ad-17 and 17a-24. A copy of the SECs release adopting the rules is attached. Definition of a Lost Shareholder Rule 17Ad-17 generally defines a shareholder as "lost" when an item of correspondence, sent to the shareholders address recorded on the transfer agents master file, has been returned as undeliverable. However, transfer agents who typically remail the first returned item may delay coding the shareholder as "lost" until after the item is returned again as undeliverable, so long as the item of correspondence is remailed within one month from the date it was first returned. For purposes of the Rule, the shareholder would be considered lost on the day the remailed item was returned a second time. Transfer Agent Search Requirements 1 Rule 17Ad-9 of the Securities Exchange Act of 1934 defines a "recordkeeping transfer agent" as a "registered transfer agent that maintains and updates the master securityholder file." Rule 17Ad-17 requires every "recordkeeping transfer agent"1 with lost shareholder accounts to conduct two database searches using at least one information database service. Searches may be based on the lost shareholders taxpayer identification number or on the name of the lost shareholder if a tax identification number search is unlikely to locate lost shareholders, for example, when the tax identification number is missing or incomplete. Transfer agents may not use a service that charges lost shareholders until after the two database searches have been conducted. The initial database search must be conducted between three and twelve months of the shareholder being classified as lost. If, after the first database search, the shareholder is not found, a second search must be conducted

between six and twelve months after the initial search. The transfer agent must conduct these searches without a charge to the lost shareholder. The Rule provides an exemption from search requirements for shareholders who are deceased or are not a "natural person," for example, a corporation. Transfer agents may also exempt from search requirements any shareholder whose total value of all assets in their account is less than \$25.

Information Database The information database used to conduct the lost shareholder location search must be an automated database that contains addresses from the entire United States geographic area, contains at least fifty percent of the United States adult population, is indexed by taxpayer identification number or name, and is updated at least four times a year. Transfer agents may use an alternative service or a combination of services if such a methodology provides comparable results to the defined database. Transfer agents relying on an alternative service must develop written procedures documenting and describing the alternative service used. Professional search firms that charge a fee to the transfer agent rather than to lost shareholders qualify as an information database and may be used to satisfy the transfer agents search requirements.

Recordkeeping and Reporting Requirements Rule 17Ad-17 requires every recordkeeping transfer agent to maintain records demonstrating compliance with the requirements as set forth in the Rule. This includes maintaining written procedures that describe the transfer agents methodology for complying with the Rule. Rule 17Ad-7 was amended to include a requirement that transfer agents maintain these records for a period of not less than three years and to maintain the records in an easily accessible place during the first year. Rule 17a-24 requires transfer agents to file lost shareholder information with the Commission on an annual basis. Transfer agents are required to provide the total number of lost shareholder accounts and the percentage of lost shareholder accounts as compared to total shareholder accounts as of June 30 of each year. This information must be provided for accounts of shareholders considered "lost" under the Rule for each of four separate time periods: one year or less, three years or less, five years or less, and greater than five years. Transfer agents also must provide the total number of shareholder accounts escheated to state unclaimed property administrators within the year ended June 30. Under Rule 17Ac2-2, registered transfer agents are required to file an annual report of transfer agent activities with the Commission on Form TA-2 by August 31 of each calendar year. Form TA-2 will be amended to include reporting of lost shareholder information required by Rule 17a-24. The amended Form TA-2 is not yet available from the Commission; we will inform you when it becomes available. Justine Phoenix Director - Operations/ Transfer Agency Attachment