

**MEMO# 3522**

February 18, 1992

## **INSTITUTE COMMENTS ON REVISED NASAA COMMITTEE CONTRACTUAL PLAN GUIDELINES**

February 18, 1992 TO: CONTRACTUAL PLANS COMMITTEE NO. 4-92 RE: INSTITUTE  
COMMENTS ON REVISED NASAA COMMITTEE CONTRACTUAL PLAN GUIDELINES

The Institute recently submitted the attached comment letter to the NASAA Investment Company Registration/Trading Practices Committee ("Committee") on the Committee's revised proposed guidelines with respect to state regulation of contractual plans. In its comment letter, the Institute recommended that rather than imposing a requirement that the dealer substitute his judgment for that of the investor with respect to the relative merits of investing in a contractual plan, the proposed requirement be replaced with a restatement of the NASD's suitability rule. In addition, the Institute questioned the logic of the revised proposal which would have provided that contractual plans are inappropriate for certain retirement plans and recommended that this provision be deleted. The Institute further recommended that the guidelines contain a definition of "current account" and offered a revised definition for "persistency rate." Moreover, the Institute expressed support for adoption of a persistency goal of 65%. The Institute also recommended that the mandatory notification of refund rights extend only to those investors who have missed a payment and that there should be no prohibition upon initiating contact with the investor. In closing, the Institute again reiterated its opposition to restricting the investment objective of the underlying fund. The Institute will be meeting with members of the Committee on February 20th in Boston to discuss the Committee's revised guideline and the issues discussed in the Institute's comment letter. We will keep you advised of developments. Patricia Louie Assistant General Counsel Attachment

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