

MEMO# 976

February 10, 1989

ICI FILES COMMENT LETTER ON PROPOSED RULE 144A

February 10, 1989 TO: INVESTMENT ADVISERS COMMITTEE NO. 11-89 SEC RULES
COMMITTEE NO. 13-89 UNIT INVESTMENT TRUST COMMITTEE NO. 7-89 RULE 144A
SUBCOMMITTEE RE: ICI FILES COMMENT LETTER ON PROPOSED RULE 144A

The Institute has filed the attached comment letter with the SEC on proposed rule 144A which would provide a safe harbor from the registration requirements of the Securities Act of 1933 for the resale of restricted securities to institutional investors. In our letter we support the Commission's minimum asset test of \$100 million in order that specified entities may qualify as "qualified institutional buyers" under Tier I. This category includes investment advisers and investment companies which are members of a family of funds that meet the asset test. Regarding the availability of information in the private marketplace if the rule is adopted, the Institute expresses its concern regarding the amount of information that would be available regarding high grade, low yield debt obligations, in the absence of reporting requirements or contractual obligations to provide such information. With respect to information available regarding foreign issuers, we state our position that the information now required under Rule 12g3-2(b) should be sufficient, particularly in light of the ability of institutional investors to obtain additional information about the foreign issuer in the principal marketplace of that issuer. Regarding the second class of institutional buyers covered in Tiers II and III, the Institute requests that a separate category be established for investment advisers with an asset test based on assets under discretionary management rather than the assets of the adviser. We suggest that the Commission may want to adopt a minimum asset test of \$25-50 million. Finally, the Institute requests that if the proposal is adopted and results in increased liquidity in the private secondary market, that the Division of Investment Management reconsider its position regarding the percentage limitations on investment by open-end investment companies in restricted securities. Susan P. Hart
Assistant General Counsel Attachment