

MEMO# 6264

October 4, 1994

INSTITUTE LETTER ON PROPOSED RULE 17F-6

October 4, 1994 TO: ACCOUNTING/TREASURERS COMMITTEE NO. 49-94 SEC RULES
COMMITTEE NO. 106-94 RE: INSTITUTE LETTER ON PROPOSED RULE 17f-6

As we previously informed you, the Securities and Exchange Commission has proposed Rule 17f-6 under the Investment Company Act of 1940, to permit futures commission merchants ("FCMs") and commodity clearing organizations to hold custody of margin in connection with certain futures and options transactions by investment companies. (See Memorandum to Accounting/Treasurers Committee No. 27-94 and SEC Rules Committee No. 59-94, dated May 31, 1994.) Attached is a copy of the Institute's comment letter on the proposed rule. The letter states that the Institute does not oppose adoption of a rule that would permit, but not require, investment companies to deposit initial margin with an FCM. In this regard, the letter notes that third party custodial accounts, currently used by funds that engage in futures and options transactions, provide significant benefits and investor protections to investment companies and their shareholders. The Institute recommends that the proposal be modified in certain significant respects to ensure that it will in fact offer a feasible alternative to third party custodial accounts. Among other things, the letter suggests that the proposed responsibilities of a fund's board of directors (or its delegate) to select and monitor FCM arrangements be modified to alleviate the board from having to make detailed findings about an FCM's financial strength and internal procedures and safeguards. Amy B.R. Lancellotta Associate Counsel Attachment

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