

**MEMO# 1116**

April 18, 1989

## **RECENT SEC NO ACTION LETTERS ON PERFORMANCE ADVERTISING**

April 18, 1989 TO: SEC RULES MEMBERS NO. 22-89 RE: RECENT SEC NO ACTION LETTERS ON PERFORMANCE ADVERTISING

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In an attached no action request and response the staff of the SEC's Division of Investment Management stated that it would not take action if the requesting mutual funds advertised performance results from the date on which new management began advising the funds without including in such advertisements or supplemental sales literature the funds' average annual total returns for one, five and ten years (or life of fund if less). The staff said that it would not recommend that the Commission take action provided that any such advertisement or sales literature (1) clearly indicates the date of inception for the particular Fund and the fact that the Fund previously operated under different management; and (2) states that per share income and capital changes for the last ten fiscal years of the Fund are disclosed in its statutory prospectus. The response states that the staff's position is based on the particular facts and representations in the no action request and that the staff might come to a different conclusion if presented with different facts. In a separate no action request and response the staff declined to provide no action assurance to a money market fund designed for corporate and institutional cash managers that wished to include in an advertisement subject to Securities Act Rule 482 a one-day yield in addition to its seven day yield. We will keep you informed of developments concerning performance advertising by mutual funds. Mary K. Bellamy Associate General Counsel Attachments

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