

MEMO# 5671

March 11, 1994

INSTITUTE COMMENT LETTER ON NASD GUIDELINES FOR RANKINGS IN MUTUAL FUND ADVERTISEMENTS

March 11, 1994 TO: SEC RULES COMMITTEE NO. 32-94 SUBCOMMITTEE ON ADVERTISING
NO. 5-94 RE: INSTITUTE COMMENT LETTER ON NASD GUIDELINES FOR RANKINGS IN
MUTUAL FUND ADVERTISEMENTS

The Institute has filed a comment letter with the Securities and Exchange Commission expressing its strong support for guidelines proposed by the National Association of Securities Dealers, Inc. concerning the use of rankings in mutual fund advertisements. The proposed guidelines generally would require that all mutual fund advertisements and sales literature containing a ranking disclose certain information about the ranking, and would impose specific requirements regarding references to rankings in advertisement headlines, appropriate ranking time periods, and the development of ranking categories. Last May, the Institute proposed similar guidelines to the NASD. Unlike the Institute's proposal, however, the NASD's proposal would require that total return or yield rankings for non-money market funds be accompanied by 1-, 5-, and 10-year (or life of the fund) total return rankings. (The Institute's proposal only would have required that yield rankings be accompanied by a 1-year total return ranking.) The NASD's proposal also would require the pre-filing of material that include rankings that are not generally published or are fund-created. In its comment letter, the Institute expressed concern about the NASD's proposal to require 1-, 5-, and 10-year rankings because most ranking entities do not provide rankings for all of these periods. The Institute suggested that the proposed requirement be amended to require such rankings "to the extent that they have been issued by the Ranking Entity." In addition, the Institute's comment letter recommended an amendment to the proposed requirement that sales material containing a ranking disclose whether fee waivers or expenses advancements "had a material effect on the ranking." Noting that a fund would not know what effect, if any, a fee waiver or expense advancement had on the ranking, the Institute's letter recommended that the fund instead be required to disclose the effect of the waiver or advancement on the fund's total return or yield. Copies of the NASD's proposal and the Institute's comment letter are attached. Thomas M. Selman Assistant Counsel Attachments