

MEMO# 7788

April 16, 1996

WIRE TRANSFER RECORDKEEPING AND RELATED RULES

1 For example, where an “established customer” (as defined in the rules) of a non-bank financial institution originates a transmittal order, the institution must keep the following information: (1) the name and address of the transmitter; (2) the amount and execution date of the transmittal; (3) any payment instructions received from the transmitter with the transmittal order; (4) the identity of the recipient’s financial institution; (5) to the extent received with the transmittal order, the name, address, account number and any other specific identifier of the recipient; and (6) any form relating to the transmittal of funds completed or signed by the person placing the transmittal order. A non-bank financial institution that accepts a transmittal order for a recipient that is an “established customer” must retain the original or a copy of the transmittal order and any form completed or signed by the person receiving the proceeds of the transmittal. A non-bank financial institution that acts as an intermediary must retain the original or a copy of the transmittal order. Additional requirements apply in the case of transactions involving entities that are not “established customers.” In all cases, required records must be kept for five years. 2 Such information generally includes the name, address and account number of the transmitter, the amount and execution date of the transmittal order, the identity of the recipient’s financial institution and the name, address and account number of the recipient. 3 60 Fed. Reg. 220 (recordkeeping rules) and 60 Fed. Reg. 234 (travel rule) (January 3, 1995) (Attachments A and B, respectively, to this Memorandum). 4 61 Fed. Reg. 14383 (amendments to recordkeeping rules) and 61 Fed. Reg. 14386 (amendments to travel rule) (April 1, 1996) (Attachment C to this Memorandum). 5 See 61 Fed. Reg. 14382 (April 1, 1996). 6 See 31 CFR 103.11(i) (which will become 31 CFR 103.11(n) upon the adoption of the new rules). April 16, 1996 TO: BANK AND TRUST ADVISORY COMMITTEE No. 9-96 COMPLIANCE COMMITTEE No. 9-96 OPERATIONS COMMITTEE No. 7-96 SEC RULES MEMBERS No. 18-96 TRANSFER AGENT ADVISORY COMMITTEE No. 20-96 RE: WIRE TRANSFER RECORDKEEPING AND RELATED RULES

As you may know, the Federal Reserve Board and the Department of the Treasury have adopted new recordkeeping and other requirements with respect to wire transfers of \$3,000 or more. The rules require “financial institutions” that send wire transfers, act as intermediaries in wire transfer transactions or receive wire transfers to collect and retain certain information.¹ A companion rule known as the “travel rule” requires “financial institutions” that act as transmitters* financial institutions and intermediary financial institutions in transmittals of funds to include specified information in transmittal orders sent to receiving financial institutions.² The releases adopting these rules³ and recent amendments thereto ⁴ are attached. The effective date of the rules has been delayed to May 28, 1996.⁵ The term “financial institution” is defined for purposes of the above rules as: “each agent, branch or

office within the United States of any person doing business, whether or not on a regular basis or as an organized business concern” in any of several specified capacities including, among others, a bank, a broker or dealer in securities, or a “person engaged in the business of transmitting funds.”⁶ The specific requirements vary depending upon the type of institution, its role in the transaction and its relationship with the parties to the transaction. The Institute recently contacted the Treasury Department to seek clarification of the scope of the rules, and in particular whether they apply to mutual fund transfer agents. We are pleased to report that a Treasury Department official expressed the view that the rules do not apply to a transfer agent, unless the transfer agent also is a bank or a broker-dealer. A copy of a ⁷ See Appendix D to this Memorandum. follow-up letter sent to the Treasury Department official describing the Institute’s understanding of this position is attached.⁷ The official subsequently confirmed his agreement with the position as expressed in the Institute’s letter. In analyzing whether the rules apply to entities that are covered by the definition of “financial institution” and may be involved in mutual fund-related wire transfers (e.g., mutual fund underwriters), it should be noted that in addition to “financial institution” and “established customer,” the rules utilize many other defined terms. For example, in the case of a non-bank financial institution, recordkeeping requirements apply where the financial institution “accepts” a “transmittal order,” either as a “transmittor’s financial institution,” as an “intermediary financial institution,” or as a “recipient’s financial institution.” Thus, it is necessary to determine whether the entity acts in any of these capacities, as they are defined in the rules, as well as whether a particular instruction with respect to a wire transfer constitutes a “transmittal order.” Moreover, several of the defined terms contain notable exceptions. For example, the definitions of “funds transfer” and “transmittal of funds” exclude transactions made through an automated clearinghouse.

Justine Phoenix Frances M. Stadler Director - Operations/Transfer Agency Associate Counsel Attachment (in .pdf format) Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Information Resource Center at (202)326-8304, and ask for this memo's attachment number: 7788.