

MEMO# 5660

March 10, 1994

HOUSE PANEL HOLDS HEARINGS ON BANK SALES OF MUTUAL FUNDS -- INSTITUTE TESTIFIES

March 10, 1994 TO: BOARD OF GOVERNORS NO. 25-94 FEDERAL LEGISLATION COMMITTEE
NO. 6-94 FEDERAL LEGISLATION MEMBERS NO. 6-94 RE: HOUSE PANEL HOLDS HEARINGS
ON BANK SALES OF MUTUAL FUNDS -- INSTITUTE TESTIFIES

On Tuesday, March 8, Institute President Matthew P. Fink testified before Congress on issues related to the sales of mutual funds by banks. Appearing before the Subcommittee on Financial Institutions of the House Banking Committee, Fink addressed the potential for customer confusion, growing regulatory shortfalls, and other issues associated with banks' growing presence in the mutual fund business. In his testimony, Fink noted that bank participation in the fund industry has been a positive development for both the industry and the investing public, but noted that it also raised concerns over how best to regulate these activities. He cited the need for all fund investors to have equivalent protections under the law regardless of where the funds are purchased, and noted that the SEC is the appropriate regulatory authority to oversee securities activities. The hearing consisted of four panels. The first panel was a solo appearance by Representative Richard Neal (D-MA) sponsor of H.R. 3398, legislation which would require written disclosures in conjunction with bank sales and advertising of mutual funds. The second panel consisted of representatives from all of the bank regulatory agencies, including Eugene Ludwig, OCC; Andrew Hove, FDIC; John P. LaWare, Federal Reserve; and Jonathan L. Fiechter, OTS. The regulators all spoke of the affirmative actions they are undertaking to minimize investor confusion with respect to bank sales issues, and cited the joint regulatory guidelines recently promulgated on the topic. The third panel was comprised of banking and securities industry representatives. In addition to Mr. Fink were representatives of the American Bankers' Association; the Independent Bankers' Association; the Savings & Community Bankers' Association; and the Consumer Bankers' Association. -2- None of the witnesses on this panel, including the Institute, endorsed legislation mandating new regulations on bank sales. The banking organizations were united in their support for the guidelines which have been issued by the bank regulators, and noted the release of their own industry guidelines as an example of their efforts to be responsive to concerns over customer confusion. The final panel was made up of representatives from consumer groups and state securities regulators: the Consumer Federation of America and the Association of Retired Persons testified on the need for statutory protections designed to minimize the potential for customer confusion regarding the uninsured nature of bank-sold mutual funds. Additionally, the North American Securities Administrators Association did not favor creating a statutory role for bank regulators with respect to bank mutual fund sales, but favored increased SEC and state

securities department oversight. NASAA stated that creating a separate body of regulatory law could result in a situation where industries might engage in "regulatory arbitrage," attempting to choose between regulatory agencies in order to obtain favorable treatment. A copy of Mr. Fink's testimony is enclosed. It is expected that the Telecommunications and Finance Subcommittee Chairman Ed Markey (D-MA) will hold related hearings in early April on H.R. 3447, the "Securities Regulatory Equality Act of 1993", the so-called functional regulation bill. We will keep you informed as this matter developed. If you wish additional information, please call the Legislative Affairs Department at 202/326-5890. This memo can also be found in FUNDS, the Institute's Fund User Network and Delivery System, under Legislative Affairs; Washington Update. Julie Domenick Senior Vice President Legislative Affairs

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