

MEMO# 5670

March 11, 1994

MARKET 2000 REPORT RECOMMENDS ENHANCED SOFT DOLLAR DISCLOSURE

March 11, 1994 TO: INVESTMENT ADVISERS COMMITTEE NO. 21-94 SEC RULES COMMITTEE
NO. 31-94 SOFT DOLLARS TASK FORCE RE: MARKET 2000 REPORT RECOMMENDS
ENHANCED SOFT DOLLAR DISCLOSURE

The SEC Division of Market Regulation's recently released Market 2000 report contains a discussion of soft dollar practices, including the Division's recommendations for enhanced disclosure requirements concerning soft dollar arrangements. A copy of this portion of the Report is attached. The Report warns that Section 28(e) of the Securities Exchange Act (which provides a safe harbor for certain types of soft dollar arrangements) does not relieve money managers or brokers from their best-execution responsibilities "nor does it provide a shield from the antifraud provisions of the federal securities laws." The Report notes certain concerns that have arisen with respect to soft dollar practices, including possible conflicts of interest where brokers are chosen not based on their execution skills, but for their willingness to provide services for soft dollars. The Report indicates that, based on these conflict of interest concerns, the Division believes closer scrutiny of soft dollar practices by representatives of managed accounts and by regulators is warranted, especially when soft dollar and directed brokerage arrangements comprise a significant portion of commission payments. In addition, the Report concludes that "it is appropriate to require advisers to disclose quantifiable information to its [sic] clients, including more specific information regarding the research and other services an adviser receives through a soft dollar arrangement." In the Division's view, any additional disclosure requirements should include explicit statements about possible conflicts of interest created by soft dollar arrangements. Also, according to the Report, such disclosure requirements should apply equally to services obtained from "in-house" or third party firms, and appropriate regulators should consider whether these additional disclosures also should apply to banks acting as investment advisers. Thomas M. Selman Assistant Counsel Attachment