

MEMO# 5412

December 16, 1993

LETTER AND SPEECH OF THE COMPTROLLER OF THE CURRENCY CONCERNING BANK SALES OF MUTUAL FUNDS

December 16, 1993 TO: BANK INVESTMENT MANAGEMENT MEMBERS NO. 36-93 BOARD OF GOVERNORS NO. 114-93 TASK FORCE ON BANK SALES ACTIVITIES RE: LETTER AND SPEECH OF THE COMPTROLLER OF THE CURRENCY CONCERNING BANK SALES OF MUTUAL FUNDS

As we previously informed you, the Office of the Comptroller of the Currency has issued a guidance circular to national banks on the sale of nondeposit investment products, including mutual funds. (See Memorandum to Board of Governors No. 62-93, Bank Investment Management Members No. 15-93, Task Force on Bank Sales Activities, dated July 19, 1993.) The Comptroller recently wrote a letter to the chief executive officers of all national banks that reiterates the need for complete and accurate disclosure about nondeposit investment products sold through banks. A copy of the letter is attached. 1. The Comptroller's Letter The Comptroller's letter states that the disclosure suggested by the guidelines should be conspicuous, and that conspicuous "doesn't mean 'buried in fine print on the back of a brochure or at the bottom of an advertisement.'" The letter urges banks to make sure that their marketing departments and vendors make clear and conspicuous disclosure. The Comptroller has asked OCC examiners to review existing disclosure materials and report to him about whether the disclosures are adequate. The letter concludes that "OCC action . . . is no substitute for vigorous self-regulation and aggressive implementation of national bank compliance programs." 2. Comptroller's Speech Before the Annual Convention of the American Bankers Association Attached to the Comptroller's letter is a speech that the Comptroller recently gave before the Annual Convention of the American Bankers Association. In his speech, the Comptroller suggested that "somewhere along the way, this industry's self-regulatory effort has fallen short" The Comptroller also stated that "time after time, both the industry and the regulatory community have failed to identify and address minor problems, before those problems get out of hand and rise to the level of concern that occasions legislation." The Comptroller said that some banks have made the disclosure called for by the OCC's guidelines on the bank sale of investment products, but inconspicuously, such as in "tiny type" on the back of brochures or at the bottom of advertisements. He then stated, "If the industry cannot find a way to police itself in this area, Congress will. And you are not going to like it." We will keep you informed of further developments. Paul Schott Stevens General Counsel Attachment

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.