

**MEMO# 6534**

January 9, 1995

# **INSTITUTE COMMENT LETTER SEEKS WITHDRAWAL OF SEC LEGAL PROCEEDINGS DISCLOSURE PROPOSAL**

January 9, 1995 TO: CLOSED-END FUND COMMITTEE No. 2-95 SEC RULES COMMITTEE No. 2-95 UNIT INVESTMENT TRUST COMMITTEE No. 2-95 RE: INSTITUTE COMMENT LETTER SEEKS WITHDRAWAL OF SEC LEGAL PROCEEDINGS DISCLOSURE PROPOSAL

As we previously informed you, the Securities and Exchange Commission has proposed to require disclosure of certain past legal proceedings in investment company prospectuses and proxy statements. (See Memorandum to Closed-End Fund Committee No. 25-94, SEC Rules Committee No. 119-94 and Unit Investment Trust Committee No. 72-94, dated November 8, 1994.) The Institute filed the attached comment letter with the SEC last Friday. The Institute's letter recommends that the Commission withdraw its proposal as to investment companies because there is no demonstration of why it is needed and it is directly contrary to the Commission's goal of simplifying fund prospectuses. The letter indicates that if the proposal is not withdrawn, its scope should be narrowed significantly. The letter notes that the proposed requirements would mandate disclosures, irrespective of materiality, with respect to an unreasonably long list of legal proceedings and an inappropriately broad universe of persons and entities. To address these problems, the letter suggests that the Commission model any new legal proceedings disclosure requirements for investment companies after Rule 206(4)-4 under the Investment Advisers Act, which governs an investment adviser's obligation to disclose material financial and disciplinary information to clients, and incorporates a materiality test. The letter also recommends changes concerning the proposed definition of "managerial person" of the investment adviser (or depositor, in the case of unit investment trusts) to limit further the application of the proposed disclosure requirements. Finally, the letter states that proxy statement disclosure of legal proceedings should only be required where relevant to a matter being voted upon.

Frances M. Stadler Associate Counsel Attachment