

**MEMO# 1697**

February 1, 1990

# **INCORPORATION BY REFERENCE PROVISION IN PROPOSED AMENDMENTS TO MUTUAL FUND REGISTRATION STATEMENT**

February 1, 1990 TO: ACCOUNTING/TREASURERS MEMBERS NO. 4-90 RE: INCORPORATION BY REFERENCE PROVISION IN PROPOSED AMENDMENTS TO MUTUAL FUND REGISTRATION STATEMENT \_\_\_\_\_ In connection with the recent release issued by the SEC proposing amendments to Form N-1A (See Memorandum to Board of Governors No. 3-90, SEC Rules Members No. 2-90, Accounting/Treasurers Members No. 1-90 and Operations Members No. 2-90, dated January 9, 1990.), we understand there is some confusion regarding the section entitled "Incorporation by Reference of Subsequently Filed Information," beginning on page 29 of the release. As you know, the release proposes that disclosure about mutual fund performance be required to be included in prospectuses or annual reports to shareholders. The release also proposed revisions to the per share table, including the addition of total return data. In connection with these changes, the SEC is proposing to provide for automatic incorporation by reference of information contained in annual reports into the registration statement. Currently, if a new annual report is issued before a fund's registration statement is updated to incorporate by reference the financial information from the new report, the fund must continue to deliver the old annual report along with the prospectus or SAI or, alternatively, file a post-effective amendment incorporating the new annual report when it is issued. In the release, the SEC is proposing to provide for the automatic incorporation by reference into a fund's prospectus or SAI, the proposed performance information and updated financial statements for the fund contained in its annual report subsequently filed with the SEC. This would permit a fund to deliver its current annual report along with its prospectus or SAI as soon as the report is filed with the SEC. -2- The SEC staff has received questions about the procedure for including the written consent of the fund's accountant for including the subsequently filed information in the fund's registration statement. The staff has requested the Institute to clarify for its members that, under the proposal, if a fund elects to use this automatic incorporation by reference procedure, the written consent of the fund's accountant with respect to material incorporated by reference in a previously filed registration statement would be required to be filed with the SEC as an attachment to the fund's subsequently filed annual report. Please note that the comment period for the proposed revisions to Form N-1A ends on March 12, 1990. The Institute requested comments from members by January 31, 1990. If you have comments on the revisions to the per share table, the automatic incorporation by reference provision or any other aspect of the proposal, please provide them to Craig Tyle,

Amy Rosenblum or me as soon as possible. Donald J. Boteler Director of Operations/ Fund Accounting

---

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.