

MEMO# 10464

November 10, 1998

INSTITUTE COMMENT LETTER ON REPROPOSED BROKER-DEALER BOOKS AND RECORDS REQUIREMENTS

1 See Memorandum to SEC Rules Committee No. 101-98, dated Oct. 12, 1998. 2 See Memorandum to SEC Rules Committee No. 109-98, dated Oct. 29, 1998. [10464] November 10, 1998 TO: SEC RULES COMMITTEE No. 111-98 RE: INSTITUTE COMMENT LETTER ON REPROPOSED BROKER-DEALER BOOKS AND RECORDS REQUIREMENTS

The Institute recently filed with the Securities and Exchange Commission the attached comment letter on its repropose amendments to the broker-dealer books and records rules (Rules 17a-3 and 17a-4 under the Securities Exchange Act of 1934).¹ With some changes, the letter is generally the same as the draft letter circulated on October 29, 1998.² The Institute's comments focus on a proposed requirement that all broker-dealers maintain an account record for each customer, containing such information as the customer's investment objectives. The letter argues that this proposed requirement is illogical for broker-dealers that do not make investment recommendations, such as many underwriters of investment companies, and thus it should not apply to such broker-dealers. The letter also argues that investment company underwriters should not be subject to a proposed requirement to maintain records of whether customers are associated persons of broker-dealers, since investment company shares do not raise the concerns with front- running that the requirement was intended to address. Additionally, the letter recommends that a provision requiring broker-dealers to maintain separate records indicating whether the broker-dealer has complied with securities rules governing information required when opening or updating a securities account be deleted as unnecessary. Finally, the letter recommends that a proposed requirement to retain all communications of the broker-dealer related to its "business as such" should be clarified to allow broker-dealers to develop written record retention policies and procedures appropriate for the type of business conducted by the broker-dealer. Joseph P. Savage Associate Counsel Attachment

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