

**MEMO# 8054**

July 11, 1996

## **HAWAII ISSUES INFORMATION ON NEW FILING REQUIREMENTS**

1 See Memorandum to State Securities Members No. 9-96, Unit Investment Trust Members No. 11-96, and Small Funds Committee No. 6-96, dated May 8, 1996. 2 See Memorandum to State Securities Members No. 18-96, Unit Investment Trust Members No. 23-96, and Small Funds Committee No. 11-96, dated June 18, 1996. July 11, 1996 TO: SMALL FUNDS COMMITTEE No. 14-96 STATE SECURITIES MEMBERS No. 22-96 UNIT INVESTMENT TRUST MEMBERS No. 30-96 RE: HAWAII ISSUES INFORMATION ON NEW FILING REQUIREMENTS

As we previously informed you, effective July 1, 1996, the Hawaii Securities Act was amended to: (1) require the registration of all mutual funds and unit investment trusts that do not meet blue chip criteria, and (2) impose a filing requirement and assess a fee on those funds and trusts that claim the exemption.<sup>1</sup> Though the amendments took effect July 1st, the Hawaii Commissioner of Securities has provided funds and trusts until August 31st to fulfill the new filing requirements,<sup>2</sup> in part, to give his office time to develop a form to be used to claim the exemption. Such form has finally been provided to the Institute, along with information on the requirements for claiming the exemption or registering securities, as appropriate. This information is summarized below. PROCEDURE TO CLAIM THE BLUE CHIP EXEMPTION IN HAWAII Filing Requirements Attached is the form that must be filed to claim the blue chip exemption in Hawaii. One form should be filed for each fund claiming the exemption. All filings for funds or trusts currently being offered for sale in Hawaii must be made no later than August 31st. The first time a fund or trust files the form, it should check "Initial" in response to Item 2, even though the fund or trust has been or is currently being offered for sale in Hawaii. Also, though the amendments to the Hawaii Act provide that the exemption be claimed at the fund or trust level, in response to Item 5 of the attached form a fund or trust must list each of its portfolios, series, and classes. All exemptions will expire two months after the fund\*s or trust\*s fiscal year end. To maintain the exemption beyond this period, the fund or trust must file the attached form, checking the appropriate responses to Items 2 and 6, and pay its renewal fees no later than the date of expiration. Fees As mentioned above, the amendments to the Hawaii Act provide that fees for claiming the blue chip exemption be assessed at the fund or trust level. Accordingly, notwithstanding the number of portfolios, series, or classes listed in response to Item 5, a fund or trust need only pay one \$200 fee to claim the exemption initially. Thereafter, the fund or trust need only pay \$50 to renew the exemption, regardless of its number of portfolios, series, or classes. Confirmation of Effectiveness To receive an acknowledgment of receipt of the filing, a fund or trust should include an additional copy of the form along with a self-addressed stamped envelope. According to correspondence from the Commissioner, however, "if the issuer does not provide a second copy of the form to be sent back, it will take additional time . . . to process and return a stamped copy back to the

issuer or filer." REGISTRATION OF SECURITIES IN HAWAII Forms Funds and trusts that do not meet the blue chip criteria must register their securities with the Commissioner's office in order to offer them for sale after August 31st. Attached is the registration application form to be used. According to the Commissioner's office, such shares or units will be registered under the qualification registration provisions of the Act and, to the extent information required by the attached form is inapplicable to the fund or trust, the form should be so noted. The Institute is still discussing with the Commissioner's office whether a fund or trust that has filed for registration prior to August 31st must cease offering its securities for sale in Hawaii on September 1st if such registration has not yet become effective. We hope to have a definitive response in the very near future. As soon as we do, we will inform our members. Fees The fee to register securities is one-tenth of 1% of the aggregate offering price of the securities to be sold in Hawaii, with a minimum fee of \$250 and a maximum fee of \$2500. Registration will be effective for one year from effectiveness and may be renewed by filing, at least 15 days prior to expiration, a copy of the current prospectus along with a \$250 renewal fee. (The \$20 renewal fee mentioned on page 3 of the application is incorrect.) Confirmation of Registration According to the Commissioner's office, upon review of an application, a notice of deficiencies or comment letter will be sent to the issuer. Once the deficiencies are corrected, a notice of approval will be sent to the issuer. For funds and trusts that register their securities, it should be remembered that for approximately 15 years, Hawaii has not required the registration of any securities that are registered under the Securities Act of 1933. Accordingly, the process of reviewing such filings may be new to them. Miscellaneous Inquiries concerning the new procedures or confirmation of effectiveness should be directed to Henry Tanji, the Deputy Commissioner of Securities at 808/586-2737. When calling, however, remember that Hawaii is six hours behind Eastern Standard Time and three hours behind Pacific Standard Time. Also, the Institute is very interested in hearing the experience of our members with Hawaii's new requirements. Please contact me at 202/326-5825 to let me know of your experiences and, for funds or trusts that register their securities, please fax me a copy of any comment letters received from Hawaii. My fax number is 202/326-5828. Tamara K. Cain Assistant Counsel Attachments