

MEMO# 8947

May 30, 1997

INSTITUTE COMMENTS ON NASAA ADVERTISING PROPOSAL

May 30, 1997 TO: ADVERTISING SUBCOMMITTEE No. 18-97 SEC RULES COMMITTEE No. 58-97 STATE LIAISON COMMITTEE No. 15-97 UNIT INVESTMENT TRUST COMMITTEE No. 35-97 RE: INSTITUTE COMMENTS ON NASAA ADVERTISING PROPOSAL

In July 1996, the Sales Practices Committee of the North American Securities Administrators Association ("NASAA") published for comment proposed amendments to the NASAA Statement of Policy on "Dishonest and Unethical Sales Practices by Broker-Dealers" that would incorporate provisions relating to advertising and sales literature ("NASAA's advertising proposal"). In response to the Committee's request for comments, in August 1996 the Institute filed a comment letter recommending that the Committee expressly exclude investment company offerings from the proposal. In support of our recommendation, we noted that the Committee was drafting a Statement of Policy on "Dishonest or Unethical Practices in Connection with Investment Company Securities" and, to the extent the Committee believed it necessary to regulate investment company advertising, it would seem appropriate to do so in the Statement of Policy tailored to investment company securities rather than in a general broker-dealer policy statement. In response to the Institute's August 1996 comment letter, the NASAA Committee recently requested that the Institute revisit the Committee's advertising proposal and identify those portions of it that we believe would be appropriate to include in the Statement of Policy relating to investment company securities. Pursuant to this request, the Institute has re-reviewed NASAA's advertising proposal and, in light of enactment of the National Securities Markets Improvement Act of 1996 ("NSMIA"), has determined that, as it would apply to investment company securities, it has been rendered moot. The Institute has filed with the Committee the attached letter that discusses in detail the impact NSMIA has had on the Committee's proposal. Our letter recommends that, in recognition of NSMIA's preemptive provisions, the Committee amend its pending advertising proposal to expressly exclude its application to any investment company advertising or sales literature. A copy of the Committee's proposal as published last July and the Institute's comment letters thereon are attached. Tamara K. Reed Associate Counsel Attachments

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