

**MEMO# 9380**

October 29, 1997

## **INSTITUTE LETTER TO DOL AND SEC ON CROSS-TRADES**

[9380] October 29, 1997 TO: PENSION COMMITTEE No. 43-97 RE: INSTITUTE LETTER TO DOL AND SEC ON CROSS-TRADES

The Institute has sent a letter to Olena Berg, Assistant Secretary for Pension & Welfare Benefits at the Department of Labor and Barry Barbash, Director of the Division of Investment Management at the Securities and Exchange Commission urging them to work together to eliminate the inconsistencies in their respective regulations applicable to cross-trades. The purpose of the letter is to highlight various regulatory inconsistencies between SEC Rule 17a-7, which applies to cross-trades involving a mutual fund, and various individual exemptions issued by the Department of Labor, which apply to cross-trades involving various individual employee benefit plans. The letter emphasizes that the Department and the SEC should impose consistent regulations for cross-trades regardless of the type of client involved because the agencies share underlying policy concerns, i.e., the Department and the SEC both seek to ensure that a fiduciary fulfills its duties to its clients and that the interests of the investors are fully protected. The Institute plans to contact both the Department and the SEC in the near future regarding possible next steps with regards to consistent regulations for cross-trades. A copy of the letter is attached. Kathryn A. Ricard Assistant Counsel - Pension Attachment (in .pdf format)

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