

**MEMO# 6002**

June 24, 1994

## **INSTITUTE COMMENTS ON PROPOSED TEXAS REGULATIONS**

June 24, 1994 TO: INVESTMENT ADVISERS COMMITTEE NO. 39-94 STATE LIAISON COMMITTEE NO. 39-94 UNIT INVESTMENT TRUST COMMITTEE NO. 44-94 RE: INSTITUTE COMMENTS ON PROPOSED TEXAS REGULATIONS

As we previously informed you, the Texas State Securities Board (the "Board") has proposed revisions to the Texas Securities Act that would amend or create provisions relating to assessment of administrative fines, civil liability for investment advisers, sale of excess securities, and registration by coordination, among others. (See Memorandum to Investment Advisers Committee No. 34-94, State Liaison Committee No. 32-94, and Unit Investment Trust Committee No. 35-94, dated May 13, 1994.) The Institute filed the attached comment letter with the Board that generally supports the proposed revisions and recommends that minor modifications be made to the proposed provisions relating to an investment adviser's civil liability. In particular, the Institute's letter recommends that, rather than mandating the amount of an adviser's civil liability to a client, the civil liability provision be amended to permit the court to award the appropriate amount of damages based upon the circumstances. Similarly, the Institute recommends that the interest recoverable by an advisory client run, not from the date of payment of consideration, but from the date of loss. The Institute has recommended these changes to ensure that advisory clients are reasonably compensated for unlawful conduct by an investment adviser without being unduly enriched in the process. Tamara K. Cain Assistant Counsel Attachment

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