

MEMO# 7994

June 21, 1996

INSTITUTE COMMENT LETTER ON PROPOSED BANK AGENCY INTERPRETATION OF BANK SUITABILITY OBLIGATIONS

1 See Memorandum to Investment Advisers Committee No. 11-96, SEC Rules Committee No. 49-96 and Small Funds Committee No. 9-96, dated May 29, 1996. June 21, 1996 TO: INVESTMENT ADVISERS COMMITTEE No. 14-96 SEC RULES COMMITTEE No. 64-96 SMALL FUNDS COMMITTEE No. 13-96 RE: INSTITUTE COMMENT LETTER ON PROPOSED BANK AGENCY INTERPRETATION OF BANK SUITABILITY OBLIGATIONS

As we previously informed you, the federal bank regulatory agencies recently issued a joint proposed interpretation concerning a banks suitability obligations to institutional customers.¹ The Institute recently submitted the attached comment letter to the bank regulatory agencies on the proposal. The proposed interpretation states that, for its purposes, an institutional customer is any entity other than a natural person, but that in determining the applicability of the interpretation to an institutional customer the bank regulatory agencies will consider the dollar value of the securities that the institutional customer has under management. The interpretation states that it is more appropriately applied to an institutional customer with at least \$10 million in securities under management. The Institutes letter seeks clarification that a banks suitability obligation and the guidance provided by the interpretation would apply identically with respect to all registered investment companies, regardless of the amount of assets that a particular investment company has under management. The letter points out that all registered investment companies are equally subject to the Investment Company Act of 1940 and must operate within the same competitive environment in which they are expected to obtain professional, experienced investment management for their shareholders. Moreover, a regulatory interpretation that liberalizes suitability requirements with respect to larger investment companies could inadvertently lead to discrimination against smaller investment companies, thereby depriving them of valuable investment opportunities.

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