

MEMO# 10995

May 19, 1999

Institute Paper on Money Laundering Compliance

[10995] May 19, 1999 TO: COMPLIANCE ADVISORY COMMITTEE No. 19-99 OPERATIONS COMMITTEE No. 19-99 PRIMARY CONTACTS - MEMBER COMPLEX No. 55-99 SEC RULES COMMITTEE No. 39-99 TRANSFER AGENT ADVISORY COMMITTEE No. 32-99 MONEY LAUNDERING TASK FORCE RE: INSTITUTE PAPER ON MONEY LAUNDERING COMPLIANCE

Attached is a copy of an Institute paper entitled "Money Laundering Compliance for Mutual Funds." The paper summarizes U.S. anti-money laundering laws and regulations and their application to the mutual fund industry. It then describes various compliance measures that mutual fund groups may wish to consider adopting to protect against possible violations of these laws and regulations. As discussed in the paper, federal money laundering statutes make it a crime to engage knowingly or with "willful blindness" in a financial transaction that involves the proceeds of specified illegal activities (e.g., drug trafficking), and severe penalties can be imposed for violations. In addition, certain entities involved in the operation or distribution of mutual funds are subject to anti-money laundering regulatory requirements, which may include, for example, reporting currency transactions, maintaining records, and reporting suspicious activities. Responsibility for compliance with these requirements generally falls on entities that open accounts, and/or receive or process payments from or to investors. Violations of the regulatory requirements also carry severe potential penalties. The paper suggests that, depending on the perceived money laundering risk and other relevant factors, fund groups may want to consider adopting various measures to reduce possible exposure for money laundering violations. Such measures could include, for example: limiting the acceptance of cash and certain other forms of payment; developing procedures for identifying, referring, evaluating and reporting cash transactions and suspicious activities; supplementing procedures for establishing new direct fund accounts; incorporating appropriate provisions in contracts with or among entities that have money laundering compliance responsibilities; and developing or enhancing an overall money laundering compliance program. As noted, the paper is not intended as a substitute for appropriate professional advice with respect to the applicability of laws and regulations in particular circumstances, nor is it intended to express any legal opinion or conclusion concerning any specific action, policy or procedure. The paper was developed with the help of a special industry task force. In addition, the Institute's outside counsel, Gibson, Dunn & Crutcher and Kirkpatrick & Lockhart, assisted in drafting the paper. Finally, a draft of the paper was reviewed by members of the SEC Rules Committee. Should you have any questions regarding the paper or related issues, you may direct them to me at (202)326-5815 or Frances Stadler at (202)326-5822. Craig S. Tyle General Counsel

Enclosure

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