

MEMO# 3653

March 30, 1992

INSTITUTE REQUESTS INTERPRETIVE GUIDANCE CONCERNING THE TREATMENT OF OPTIONAL DISTRIBUTION PLANS UNDER SECTION 16

March 30, 1992 TO: CLOSED-END FUND COMMITTEE NO. 5-92 RE: INSTITUTE REQUESTS INTERPRETIVE GUIDANCE CONCERNING THE TREATMENT OF OPTIONAL DISTRIBUTION PLANS UNDER SECTION 16 _____ The Institute submitted the attached letter to the SEC staff to request interpretive guidance with respect to the applicability of Rule 16b-2 under the Securities Exchange Act of 1934 (which provides an exemption to dividend reinvestment plans from the short-swing profit liability provisions) to closed-end fund year-end optional distribution plans. Interpretive guidance also was requested with respect to the reporting requirements for transactions in these plans under the Section 16 rules. In the letter, the Institute expressed its view that optional distribution plans should be treated the same as dividend reinvestment plans for all purposes under Section 16. The staff had previously provided similar interpretive guidance on this issue in a 1981 no-action letter. However, since that time, the rules under Section 16 have been substantially amended. Therefore, it is unclear whether funds could continue to rely on that no-action letter as a basis for concluding that optional distributions plans should be treated in the same manner as dividend reinvestment plans under Section 16. We will keep you informed of developments. Amy B.R. Lancellotta Associate General Counsel Attachment

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