

**MEMO# 1995**

June 28, 1990

## **SUPREME COURT DENIES CERT. IN INDEX PARTICIPATIONS CASE [D**

June 28, 1990 TO: BOARD OF GOVERNORS NO. 46-90 RE: SUPREME COURT DENIES CERT. IN INDEX PARTICIPATIONS CASE \_\_\_\_\_ On

June 18, the U.S. Supreme Court denied certiorari in the case concerning "index participations." The Court's action lets stand the decision of the U.S. Court of Appeals for the Seventh Circuit, which held that index participations constituted futures, rather than securities, and thus could only be traded on a futures exchange. The Supreme Court also denied the Institute's conditional petition for certiorari, which had requested that, in the event the Court determined that index participations were securities, it consider whether they were investment company securities. (See Memorandum to Board of Governors No. 23-90, dated April 5, 1990.) Craig S. Tyle Associate General Counsel

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