

**MEMO# 9556**

December 30, 1997

# **ICI LETTER ON SEC CONCEPT RELEASE REGARDING EQUITY INDEX INSURANCE PRODUCTS**

1 See Memorandum to SEC Rules Committee No. 83-97, dated August 29, 1997. 2 See Memorandum to SEC Rules Committee No. 108-97, dated November 11, 1997. [9556]  
December 30, 1997 TO: SEC RULES COMMITTEE No. 121-97 RE: ICI LETTER ON SEC  
CONCEPT RELEASE REGARDING EQUITY INDEX INSURANCE PRODUCTS

\_\_\_\_\_ The Institute  
has filed the attached letter on the SECs concept release soliciting comment on the status  
of equity index annuities and other equity index insurance products under the federal  
securities laws.<sup>1</sup> The Institutes letter is substantially similar to the draft letter circulated  
previously to you.<sup>2</sup> The letter takes the position that all equity index insurance products  
("EIPs") should be registered under the federal securities laws. The letter expresses the  
view that these products are not eligible for the exemptions for insurance contracts  
provided under Section 3(a)(8) of the Securities Act, and that they are outside the safe  
harbor of Rule 151 under that Act for certain annuity products. The Institutes position is  
based on the fact that investors, not insurers, assume the primary risk under EIPs, and that  
EIPs can be fairly marketed only as securities rather than as insurance products.  
Accordingly, EIPs present significant investor protection concerns that can be addressed  
only by regulating them under the federal securities laws, including provisions of the  
Investment Company Act. Amy B.R. Lancellotta Associate Counsel Attachment (in .pdf  
format)