

**MEMO# 1601**

December 18, 1989

## **INSTITUTE COMMENTS ON FDIC PASS-THROUGH DEPOSIT INSURANCE STUDY**

December 18, 1989 TO: PENSION MEMBERS NO. 54-89 UNIT INVESTMENT TRUST MEMBERS NO. 69-89 SEC RULES COMMITTEE NO. 78-89 RE: INSTITUTE COMMENTS ON FDIC PASS-THROUGH DEPOSIT INSURANCE STUDY

As we previously informed you, the Federal Deposit Insurance Corporation ("FDIC") is preparing a study concerning the pass-through of deposit insurance to individual investors in unit investment trusts and to individual participants in pension or profit-sharing plans qualified under section 401 of the Internal Revenue Code of 1986. (See Memorandum to Pension Members No. 51-89, Unit Investment Trust Members No. 64-89 and SEC Rules Committee No. 74-89, dated November 28, 1989.) Attached is a copy of the comment letter submitted by the Institute on the FDIC study. In its comment letter, the Institute urged the FDIC to recommend in its study that pass-through insurance coverage be extended to shareholders of all investment companies, regardless of whether they are managed or unmanaged and regardless of whether they are organized as a business trust or a corporation. The Institute commented that there is no justification for denying pass-through treatment to investment companies since such treatment is afforded to other entities that operate in a virtually identical manner to investment companies, such as bank common and collective trust funds. The Institute suggested that the standard for determining eligibility for pass-through treatment should turn on whether the entity is a mere passive investment pool, such as a unit investment trust and a managed investment company, as distinguished from a business enterprise that is engaged in an independent commercial activity. Under current FDIC regulations, registration under the Investment Company Act of 1940 automatically precludes an entity from receiving pass-through treatment. We will keep you informed of further developments. Amy B. Rosenblum Assistant General Counsel Attachment