

MEMO# 3484

February 3, 1992

STAFF NO-ACTION LETTER PERMITTING AN AFFILIATE OF THE SUB-ADVISER TO A MONEY MARKET FUND TO "PURCHASE" A DEFAULTED SECURITY FROM THE FUND

February 3, 1992 TO: MONEY MARKET FUNDS AD HOC COMMITTEE NO. 3-92 RE: STAFF NO-ACTION LETTER PERMITTING AN AFFILIATE OF THE SUB-ADVISER TO A MONEY MARKET FUND TO "PURCHASE" A DEFAULTED SECURITY FROM THE FUND

The staff of the Division of Investment Management issued the attached no-action letter permitting an affiliate of the sub- adviser to a money market fund ("affiliated person") to "purchase" a defaulted security from the fund. In 1989, the affiliated person had agreed to indemnify the money market fund for any loss that it incurred in connection with a portfolio security on which the issuer had defaulted on the payment of principal and interest. Pursuant to that agreement, the fund continued to hold the security and carried as an asset a receivable in an amount that reflected the par value of the security. Last summer, the staff informed the fund that it expected the fund to (i) dispose of the security or (ii) adjust the net asset value of the fund to reflect the market value of the security, which the staff believed was less than its par value and, thus, there could be a material dilution of the fund if it continued to hold the security. The affiliated person then transferred to the fund money in full satisfaction of its existing obligation to indemnify the fund from any losses incurred in connection with the defaulted security. Under this arrangement, the fund would retain title to the security, subject to the affiliated person's option to buy the security for a nominal amount. The fund requested no-action relief since (i) the transfer of money to the fund by the affiliated person could be construed as a "purchase" of the security from the fund in violation of Section 17(a) and (ii) the transaction could be construed as a joint enterprise or joint arrangement involving a registered investment company and an affiliated person of an affiliated person of the investment company in violation of Section 17(d). The fund already had received no-action relief orally from the staff and was requesting written confirmation of the staff's position. Amy B.R. Lancellotta Associate General Counsel Attachment