

MEMO# 2193

September 19, 1990

NEW MEXICO PROPOSES REGISTRATION RULES

September 19, 1990 TO: STATE LIAISON COMMITTEE NO. 22-90 UNIT INVESTMENT TRUST COMMITTEE NO. 43-90 CONTRACTUAL PLANS COMMITTEE NO. 9-90 RE: NEW MEXICO PROPOSES REGISTRATION RULES

The New Mexico Securities Division has recently proposed for public comment a comprehensive revision of its administrative rules. A copy of the proposed rules are attached. The following proposed rules relate to mutual funds, unit investment trusts and/or contractual plans: (1) Proposed Rule 4.400 allows an investment company to register its securities by filing a copy of Form U-1 and the most current effective federal registration statement with the Division. However, an application for registration of a contractual plan will not be approved if more than a pro-rata portion of the load or commission is deducted from any installment payment. The rule further states that the sales charge or load, in connection with the sale of securities of an open-end investment company, shall not exceed 9% of the offering price. (2) Proposed Rule 5.133 sets forth the procedure for claiming the blue chip exemption from registration for qualified mutual funds and unit trusts. A mutual fund or unit trust wishing to claim the exemption must file three copies of Form M, a consent to service of process on Form U-2 and the appropriate filing fee. If sales are to be made more than 12 months after the filing is received by the Division, an additional notice and fee must be submitted. Please note that the term of effectiveness in the proposed rule does not make a distinction between mutual funds and unit trusts. The proposed rule also states that incomplete forms will be returned and a \$50 fee assessed on reapplications. In addition, the proposed rule states that the director of the Division will issue an order denying the use of the blue chip exemption for contractual plans if more than a pro-rata portion of the load or commission is deducted from any installment payment. Again, the rule states that the sales charge or load shall not exceed 9% of the offering price. (3) Proposed Rule 5.203 states that "no manual has been approved by the director" with respect to the transactional exemption provided for in Section 58-13B-27C(1) of the New Mexico Securities Act (manual exemption). Written comments may be submitted to the New Mexico Securities Division through October 15, 1990. A hearing on the proposed rules will be held at 9:00 a.m., Monday, October 29, 1990 and the rules are anticipated to be adopted on November 15, 1990. Please contact me with any comments by October 1, 1990 so that such can be included in the Institute's comment letter. Patricia Louie Assistant General Counsel Attachment

should not be considered a substitute for, legal advice.