

MEMO# 7829

May 3, 1996

LETTER TO NASAA TASK FORCE ON STATE REGISTRATION OF MUTUAL FUNDS

May 3, 1996 TO: SEC RULES COMMITTEE No. 30-96 SMALL FUNDS COMMITTEE No. 5-96
STATE LIAISON COMMITTEE No. 12-96 UNIT INVESTMENT TRUST COMMITTEE No. 17-96 RE:
LETTER TO NASAA TASK FORCE ON STATE REGISTRATION OF MUTUAL FUNDS

As you may recall, in October 1995, NASAA announced the creation of a "Task Force on the Future of Shared State and Federal Securities Regulation." This Task Force, which is comprised of fourteen persons, including SEC Commissioner Steve Wallman, former SEC Chairman David Ruder, former Pennsylvania Governor and U.S. Attorney General Dick Thornburgh, three state securities commissioners, and others, is charged with defining the future of how the federal and state governments allocate regulation of the securities marketplace. The Task Force is expected to issue a report of its findings and recommendations by this Fall. According to recent public comments of one Task Force member, with respect to the regulation of mutual funds, the Task Force considered recommending: (1) maintaining the status quo; (2) pre-empting all state regulation of mutual funds -- including their antifraud authority; (3) maintaining current state registration authority but requiring the states that comment on fund prospectuses to issue one collective comment letter; and (4) permitting states to require the registration of mutual funds, but prohibiting them from imposing any disclosure or investment requirements that are not required under federal law. Apparently, the Task Force rejected (1) as unworkable; (2) as potentially harming investors; (3) as resulting in the states collectively holding fund registrations hostage; and supported (4). Accordingly, while the Task Force report has not yet been written, the Task Force is expected to recommend continued state registration of mutual funds but prohibit state review of fund prospectuses and the imposition of unique state requirements. The Institute is concerned about any proposal endorsing state registration authority inasmuch as it may enable the states to use the leverage of registration to require funds to adhere to unique state law provisions, notwithstanding any prohibitions to the contrary. Accordingly, the Institute sent the attached letter to the Chairman of the Task Force, Dee Harris, who is also the NASAA President and Arizona Securities Commissioner. In its letter, the Institute strongly recommends that the Task Force not endorse a registration requirement because, for the reasons stated in the letter, we believe that there is no justification for states to retain registration authority over mutual funds. The Institutes letter reiterates our support for states being permitted to require notice filings and the payment of fees and to retain their antifraud authority. Tamara K. Cain Assistant Counsel Attachment

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