

**MEMO# 8701**

March 7, 1997

# **DRAFT COMMENT LETTER ON SEC PROPOSAL REGARDING SCOPE OF PREEMPTION OF STATE REGULATION OF OFFERING DOCUMENTS**

\* See Memorandum to SEC Rules Committee No. 20-97 and Unit Investment Trust Committee No. 10-97, dated February 21, 1997. March 7, 1997 TO: SEC RULES COMMITTEE No. 27-97 UNIT INVESTMENT TRUST COMMITTEE No. 14-97 RE: DRAFT COMMENT LETTER ON SEC PROPOSAL REGARDING SCOPE OF PREEMPTION OF STATE REGULATION OF OFFERING DOCUMENTS

Attached is a draft of the Institutes comment letter on the SECs proposed definition of the phrase "prepared by or on behalf of the issuer" in Section 18 of the Securities Act.\* The National Securities Markets Improvement Act of 1996 preempts state regulation of offering documents prepared by or on behalf of the issuer of any "covered security", which includes any security issued by a registered investment company. The SEC\*s proposed definition would include any document authorized by the issuer and prepared by certain specified persons. The Institute\*s draft letter recommends that the definition be broadened. Specifically, it recommends that it encompass any document authorized by the issuer or certain specified persons, including an investment adviser or underwriter of the issuer. It further recommends that the definition not exclude documents prepared by a person other than one specifically referenced in the rule. Please call me with any comments on the draft letter by no later than Thursday, March 13. My telephone number is 202/326-5815 and my e-mail address is tyle@ici.org. Craig S. Tyle Vice President and Senior Counsel Attachment (in .pdf format)

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