

MEMO# 6212

September 12, 1994

REVISED UCC ARTICLE 8 ADOPTED BY THE AMERICAN LAW INSTITUTE AND NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

September 12, 1994 TO: BOARD OF GOVERNORS NO. 93-94 OPERATIONS MEMBERS NO. 31-94 SEC RULES MEMBERS NO. 63-94 TRANSFER AGENT ADVISORY COMMITTEE NO. 34-94
RE: REVISED UCC ARTICLE 8 ADOPTED BY THE AMERICAN LAW INSTITUTE AND NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

At their annual meetings held during the spring and summer of 1994, the American Law Institute ("ALI") and the National Conference of Commissioners on Uniform State Laws ("NCCUSL") approved a major revision ("Revision") to Article 8 of the Uniform Commercial Code. Article 8 constitutes the primary law governing the transfer of investment securities, including the manner in which interests in securities may be transferred and held and the rights and duties of issuers, purchasers and potential claimants in respect of transferred securities. The Revision also makes conforming changes to UCC Article 9, relating to security interests in securities and other investment property. The Institute actively participated in the project to revise Article 8 since its inception in order to identify issues of particular concern to the investment company industry. Last fall, we submitted a comment letter to the Drafting Committee that expressed strong support for the principal changes that would be effected by the Revision, particularly those that would provide clarity to, and promote the efficiency of, the securities transfer system. We are very pleased that the Revision includes many of the Institute's recommendations, particularly with respect to the provisions that enable investors to achieve a high degree of protection for their securities entitlements. Attached is a memorandum prepared by the Institute's outside counsel that describes certain of the Revision's key changes. The memorandum includes a detailed discussion of the two core concepts of the indirect holding system, i.e., a new property interest called a "security entitlement," and a new touchstone for prioritizing competing claims to investment property (whether directly or indirectly held), called "control." The memorandum also describes some of the other Article 8 changes that are of special interest to investment companies. A final copy of the entire text and commentary of the Revision is currently being prepared by NCCUSL and will be available in mid- October. If you would like a copy of the Revision, please contact my secretary, Paula Kitendaugh, at 202/326-5814 to be placed on a mailing list. It is the Institute's understanding that several states (including New York, New Jersey, Pennsylvania, Massachusetts and Maryland) may be introducing legislation

during the 1995 legislative session to adopt the Revision. The Institute will monitor adoption of the Revision by the states and will keep you advised of developments. Patricia Louie Associate Counsel Attachment

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