

**MEMO# 4634**

March 24, 1993

## **SEC PROPOSES OFF-THE-PAGE PROSPECTUS**

March 24, 1993 TO: PENSION COMMITTEE NO. 10-93 RE: SEC PROPOSES OFF-THE-PAGE PROSPECTUS \_\_\_\_\_ The Securities and Exchange Commission recently proposed to amend Rule 482 to permit investors to purchase shares of a mutual fund directly in response to a short-form prospectus, which the Commission called an "off-the-page" prospectus. The proposal would implement the SEC staff's recommendation in its Investment Company Act study, and it resembles the Institute's October submission to the SEC staff. (See Institute Memorandum to Pension Committee No. 40-92, dated October 27, 1992.) A copy of the SEC's proposing release is attached. Description of the SEC's Proposal As recommended by the Institute in its submission, the SEC's proposal would permit the use of off-the-page prospectuses in direct mailings as well as the print media. The Institute's submission particularly supported the use of such a prospectus in the retirement plan context. However, funds could use an off-the-page prospectus only after two years from the date that the advertised shares were first publicly sold. As recommended by the Institute, funds could use the off-the-page prospectus without granting a right of rescission to persons investing in response to the off-the-page prospectus. The proposal would require off-the-page prospectuses to contain standardized, core information about the fund, including: (1) the fund's name and type and the adviser's name; (2) the fee table and fee table examples called for by Form N-1A; (3) legends concerning sales loads; (4) the fund's historical performance; (5) the fund's portfolio turnover rate; (6) the fund's investment objectives and policies and principal risk factors; (7) material tax consequences of investing in the fund; (8) a statement of the purpose of 12b-1 fees (if applicable); (9) a description of any restrictions or charges on redemption; and (10) material legal proceedings. As recommended by the Institute, the off-the-page prospectus could contain information other than that which is required by the rule (as long as the substance of the information also is in the full Section 10(a) prospectus). The off-the-page prospectus would be a Section 10 prospectus for purposes of the prospectus liability provisions of Section 12(2) of the Securities Act. The application accompanying the off-the-page prospectus would contain a box that investors could check to request the statutory prospectus before investing. In all cases, the statutory prospectus would have to be delivered with the confirmation of the sale. The proposal would require that an off-the-page prospectus be pre-filed with the NASD (or the SEC in the case of nonmembers) for one year after its first use. In addition, the proposal would require that all off-the-page prospectuses be filed with the SEC within three days after their first use. Requests for Comment The SEC requested comment on numerous issues, including whether use of off-the-page prospectuses should be prohibited in direct mail advertisements. Please contact the undersigned at (202) 955-3516 if you have any

comments concerning the proposal. Kathy D. Ireland Associate Counsel - Pension Attachment

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