

MEMO# 11143

July 29, 1999

INSTITUTE TESTIFIES ON FINANCIAL PRIVACY MEASURES IN H.R. 10

1 See Memorandum to the Board of Governors No. 45-99, Federal Legislation Members No. 18-99, Primary Contacts – Member Complex No. 68-99, Public Information Committee No. 31-99. [11143] July 29, 1999 TO: BOARD OF GOVERNORS No. 49-99 FEDERAL LEGISLATION MEMBERS No. 20-99 PRIMARY CONTACTS - MEMBER COMPLEX No. 71-99 PUBLIC INFORMATION COMMITTEE No. 33-99 RE: INSTITUTE TESTIFIES ON FINANCIAL PRIVACY MEASURES IN H.R. 10

On July 21, the Institute testified before the House Banking and Financial Services Subcommittee on Financial Institutions regarding the privacy of consumer information. The hearing was the second held by the Subcommittee on the issue and explored the practices and effects of consumer information sharing by financial companies. The hearing follows the passage of H.R. 101, the “Financial Services Act of 1999,” by the House of Representatives earlier this month. In its current form, H.R. 10 requires financial firms to adopt a privacy policy, disclose the details of the policy to its customers, and provide customers with the ability to “opt out”—or prevent—the sharing of non-public personal information with non-affiliated third parties. However, financial firms are not required to provide an “opt out” if the sharing of information is part of the ordinary course of providing a financial service or product. Two of the issues examined at the hearing was whether the “opt out” requirement should be extended to affiliates and whether an “opt in”—which would require firms to obtain prior written consent before sharing information—should replace the “opt out” requirement for either affiliates or non-affiliated third parties. Institute Testimony In its testimony (which is attached), the Institute expressed the industry’s commitment to the protection of shareholders’ personal information. The Institute said that the industry’s success depends on investor confidence, and as a result, the industry is very serious about protecting the confidentiality and security of shareholder information. The Institute also supported the current privacy provisions in H.R. 10, stating that they strike an appropriate balance between important shareholder interests by giving shareholders control over uses of their personal information while ensuring that they receive financial products and services efficiently. In expressing its support, the Institute noted that H.R. 10 takes into account the unique structure of mutual fund organizations, which rely on affiliates and unaffiliated service providers to service and maintain shareholder relationships. The Institute said that the balanced H.R. 10 approach would greatly expand current disclosure practices and would give shareholders control over information sharing practices that might reasonably be considered objectionable. At the same time, the Institute stated, H.R. 10 would allow mutual fund organizations to use information as necessary to provide the financial products and services that customers desire and expect. The Institute also expressed a concern that H.R. 10 does not currently address the possibility that individual states could upset this

balance by adopting inconsistent financial privacy legislation that would be burdensome for companies that do business nationwide. Consequently, the Institute suggested that federal legislation in this area expressly preempt inconsistent requirements under state law. * * * *

* Subcommittee Chairwoman Marge Roukema (R-NJ) indicated that there would be additional hearings on financial privacy. We will keep you informed of further developments. Matthew P. Fink Attachment

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