

MEMO# 8799

April 15, 1997

AFFILIATED FINANCIAL SERVICES COMPANIES NOT REQUIRED TO AGGREGATE PUBLIC UTILITY HOLDINGS UNDER PUHCA

* See Memorandum to Closed-End Investment Company Committee No. 4-97, Compliance Advisory Committee No. 6-97, SEC Rules Committee No. 22-97 and Unit Investment Trust Committee No. 12-97, dated February 25, 1997. April 15, 1997 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 16-97 COMPLIANCE ADVISORY COMMITTEE No. 13-97 SEC RULES COMMITTEE No. 39-97 UNIT INVESTMENT TRUST COMMITTEE No. 22-97 RE: AFFILIATED FINANCIAL SERVICES COMPANIES NOT REQUIRED TO AGGREGATE PUBLIC UTILITY HOLDINGS UNDER PUHCA

The SEC staff recently issued a no-action letter concerning Section 9(a)(2) of the Public Utility Holding Company Act of 1935 ("PUHCA"), which prohibits a fund or adviser that owns 5 percent or more of the shares of one public utility or public utility holding company from acquiring 5 percent or more of the voting securities of a second public utility or public utility holding company without SEC approval. A copy of the letter is attached. The staff addressed whether a life insurance company and its subsidiaries, which are engaged in various financial services businesses, must aggregate the holdings of mutual funds, separate accounts, or other proprietary or non-proprietary accounts managed or owned by the company or its subsidiaries for purposes of Section 9(a)(2). The staff stated that it would not recommend enforcement action to the Commission if the aggregate holdings were 5 percent or more, provided that two conditions are satisfied. First, the aggregate voting securities of public utilities owned by the various accounts will constitute less than 10 percent of the outstanding voting securities of any public utility. Second, the insurance company and its subsidiaries will not attempt to control any public utility in which they own voting securities, or in which any mutual fund account, separate account or other non-proprietary account managed by the insurance company or its subsidiaries owns voting securities, other than through the exercise of rights associated with stock ownership (including director representation). Please note that this letter is not reflected in the Public Utility section on p. 16 of the "Summary of Non-1940 Act Investment Restrictions"* we recently sent to you. You may wish to make a note of it there and we will incorporate it when we update the summary. Frances M. Stadler Associate Counsel Attachment (in .pdf format)

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