

MEMO# 4239

November 6, 1992

SEC STAFF PERMITS MONEY MARKET FUNDS TO PURCHASE VARIABLE RATE NOTES GUARANTEED BY THE SMALL BUSINESS ADMINISTRATION

November 6, 1992 TO: SEC RULES MEMBERS NO. 59-92 MONEY MARKET FUNDS AD HOC COMMITTEE NO. 10-92 RE: SEC STAFF PERMITS MONEY MARKET FUNDS TO PURCHASE VARIABLE RATE NOTES GUARANTEED BY THE SMALL BUSINESS ADMINISTRATION

The Division of Investment Management issued a no-action letter addressing whether money market funds could purchase certificates that are guaranteed by the Small Business Administration and pay interest at a variable rate that resets no less frequently than annually (the "Certificates"). A copy of the staff's no-action letter is attached. The Certificates have a final maturity of greater than thirteen months and do not have demand features. Thus, the staff stated that a money market fund generally could purchase the Certificates only if they meet the requirements in paragraph (d)(1) under Rule 2a-7 of the Investment Company Act, which provides that "an instrument that is issued or guaranteed by the United States government or any agency thereof which has a variable rate of interest readjusted no less frequently than every 762 days shall be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate." The staff concluded that since the Certificates are guaranteed by the SBA and backed by the full faith and credit of the U.S. government, they satisfy the requirement of paragraph (d)(1) that they "be issued or guaranteed by the United States government or an agency thereof." Therefore, the staff stated that, assuming upon reset of the interest rate the Certificates can reasonably be expected to have a market value that approximates their par, the requirements of paragraph (d)(1) are satisfied. The staff noted in its response that while paragraph (d)(1) does not explicitly require that instruments covered by that paragraph have a market value that approximates their par value upon the readjustment of the interest rate, such a requirement is implicit in the Rule. Thus, the staff stated that a fund purchasing instruments with floating rates that may not rise above a preset cap could not rely on paragraph (d)(1) (see note 7 of the staff's response). Amy B.R. Lancellotta Associate Counsel Attachment