

MEMO# 10753

February 24, 1999

REVISED UCC ARTICLE 9 ADOPTED BY THE AMERICAN LAW INSTITUTE AND NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

1 See Memorandum to Board of Governors No. 93-94, Operations Members No. 31-94, SEC Rules Members No. 63-94, and Transfer Agent Advisory Committee No. 34-94, dated September 12, 1994. 2 These ten are: Arizona, California, Hawaii, Indiana, Maine, Montana, Nebraska, Oklahoma, Vermont and West Virginia. [10753] February 24, 1999 TO: BOARD OF GOVERNORS No. 10-99 OPERATIONS MEMBERS No. 7-99 SEC RULES MEMBERS No. 20-99 TRANSFER AGENT ADVISORY COMMITTEE No. 15-99 RE: REVISED UCC ARTICLE 9 ADOPTED BY THE AMERICAN LAW INSTITUTE AND NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

As we previously advised you, in 1994, the National Conference of Commissioners on Uniform State Laws ("NCCUSL") and the American Law Institute ("ALI") approved major revisions to Article 8 of the Uniform Commercial Code ("UCC"), along with conforming changes to Article 9.1 (Article 8 of the UCC governs the transfer of investment securities; Article 9 governs security interests in securities and other investment property.) More recently, during 1998, NCCUSL and the ALI approved major revisions to Article 9. These revisions include provisions that change or supplement some of the investment property provisions that were added to Article 9 as a result of the 1994 Article 8 revisions. It should be noted, however, that Revised Article 9 clarifies that nothing in it interferes with the rights of "protected purchasers" or comparable parties in the Article 8 indirect holding system. Attached is a memorandum prepared by the Institute's outside counsel that describes certain of the key changes made to Article 9. The memorandum includes a detailed discussion of the following issues, which are addressed in the Article 9 revisions: ! Conditions to the Exercise of Control; ! Allowing for Repo Sellers and Others to Retain Rights Without Compromising the Purchaser's Control; ! Change in the Priority Rule for Competing Security Interests with Control; ! Establishing Control Over Security Entitlements; ! Choice of Law Provisions; ! Re-pledges; and ! Perfection of Security Interests in Related "Supporting Obligations." Thus far, Revised Article 9 has been introduced in 10 states² and more are expected to follow this year. However, in order to minimize the choice of law and similar problems that relate to the transition from one statutory scheme to another, special provisions in Revised Article 9 would delay its effectiveness until July 1, 2001. It is anticipated that, by that time, enough states will have adopted Revised Article 9

that it will become effective simultaneously in a large number of jurisdictions. If you would like a copy of the entire text and commentary of the Revision, please contact my secretary, Deborah Washington, at 202/326-5818. Tamara Cain Reed Associate Counsel Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Library Services Division at (202)326- 8304, and ask for this memo's attachment number: 10753.

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