

MEMO# 7161

August 2, 1995

SEC GRANTS EXEMPTION FROM NON-SIPC STATUS DISCLOSURE REQUIREMENT

1 This disclosure requirement will become effective on October 2, 1995. August 2, 1995 TO: OPERATIONS MEMBERS No. 35-95 SEC RULES MEMBERS No. 56-95 TRANSFER AGENT ADVISORY COMMITTEE No. 42-95 UNIT INVESTMENT TRUST MEMBERS No. 39-95 RE: SEC GRANTS EXEMPTION FROM NON-SIPC STATUS DISCLOSURE REQUIREMENT

We are pleased to inform you that the Securities and Exchange Commission has granted the Institutes request for an exemption for certain transactions from the new requirement under Rule 10b-10 under the Securities Exchange Act of 1934 that disclosure be included on a confirmation statement that the broker or dealer transmitting the confirmation or clearing the customer account is not a member of the Securities Investor Protection Corporation (SIPC), if such is the case.¹ Attached is a copy of the Institutes request and the Commissions response. Specifically, the Commission granted an exemption from the non-SIPC membership disclosure requirement under paragraph (a)(9) of Rule 10b-10 for transactions in shares of mutual funds and unit investment trusts if the customer sends funds or securities directly to, or receives funds or securities directly from, the fund or trust, its transfer agent, its custodian, or other designated agent, regardless of whether such person is an associated person of the broker-dealer required to send the confirmation statement to the client under paragraph (a) of the rule. This exemption expands the narrow exception in paragraph (a)(9), which applies only to transactions where the money is sent directly to or received directly from a person not associated with the broker-dealer required to send the confirmation. The Commissions response states that the exemption does not apply where a broker-dealer, including a fund underwriter, receives customer funds or securities, even if those funds or securities are promptly forwarded to the mutual fund or unit trust, or its designated agent. The Commission also granted an exemption from the non-SIPC membership disclosure requirement when the confirmation for transactions in shares of mutual funds and unit trusts is sent by the fund or trust, or a designated agent thereof, on behalf of a non-SIPC member broker-dealer. This exemption only applies where the non-SIPC member broker-dealer is not affiliated with a SIPC member and the disclosure regarding such broker-dealers non-SIPC status is provided to the customer at the time the customer opens an account with the broker-dealer and not less than annually thereafter. In addition, such disclosure must be updated promptly in the event of a change in the broker-dealers SIPC status. Amy B.R. Lancellotta Associate Counsel Attachment

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