

**MEMO# 2490**

January 24, 1991

## **NEW MEXICO AMENDS PROPOSED REGULATIONS**

January 24, 1991 TO: CONTRACTUAL PLANS COMMITTEE NO. 1-91 RE: NEW MEXICO AMENDS PROPOSED REGULATIONS

As we previously informed you, the New Mexico Securities Division proposed regulations that would have denied the use of the blue chip exemption and the registration process to contractual plans "whereby more than a pro-rata portion of the load or commission is deducted from any installment." The Institute submitted an extensive comment letter to the Securities Division that focused on the Director's ability to promulgate rules that would deny the blue chip exemption to contractual plans absent a violation of the New Mexico Securities Act. The Institute's comment letter also questioned whether the Director had the authority to deny administratively a registration statement for a contractual plan without making an inquiry or finding that the offering constituted a "fraud" or "deceit". The Institute also testified at the public hearing held on the proposed rules. (See Memoranda to Contractual Plan Committee Nos. 9-90, dated September 19, 1990 and 12-90, dated October 26, 1990.) The Securities Division has amended the original proposal to provide that a contractual plan cannot register, or claim the blue chip exemption, unless: 1. each investor is required to read and execute a specified disclosure document; 2. all proceeds of the contractual plan investment are placed in portfolios dedicated exclusively to contractual plan sponsors for the investment objective of long term capital growth; and 3. the contract provides that an investor electing at any time to surrender his certificate cannot be charged a sales load of more than 15% of his total payments. A copy of the applicable portions of the amended proposed regulations is attached. Please contact me with any comments that you would like incorporated in the Institute's comment letter by February 1, 1991. Individual comments should be sent to Michael J. Vargon, General Counsel, New Securities Division, 725 St. Michaels Drive, Santa Fe, New Mexico 87501. \* \* \* We will keep you further advised. Patricia Louie Assistant General Counsel Attachment