

MEMO# 2011

July 6, 1990

CALIFORNIA ISSUES PROPOSED FINAL ANTI-APARTHEID DISCLOSURE REGULATIONS

July 6, 1990 TO: SEC RULES MEMBERS NO. 48-90 STATE SECURITIES MEMBERS NO. 21-90
CLOSED-END FUND MEMBERS NO. 24-90 UNIT INVESTMENT TRUST MEMBERS NO. 45-90 RE:
CALIFORNIA ISSUES PROPOSED FINAL ANTI-APARTHEID DISCLOSURE REGULATIONS

The office of the California Secretary of State has issued proposed final regulations relating to Proposition 105, which requires each corporation issuing securities in California to include disclosure in its prospectus of "whether or not" it (or any affiliated corporation) does business in South Africa, or with any person or group located there. A copy of the proposed final regulations is attached. On December 18, 1989, the office of the California Secretary of State issued emergency regulations relating to the proposition, effective January 1, 1990 (See Memorandum to SEC Rules Members No. 73-89, State Securities Members No. 43-89, Closed-End Fund Members No. 69-89 and Unit Investment Trust Members No. 71-89, dated December 19, 1989). The emergency regulations set forth, among other items, the location of disclosure, special rules for investment companies, specified language, determination of doing business with persons located in South Africa and the scope of the regulation. The proposed final regulations are very similar to the emergency regulations. However, the proposed final regulations contain different alternatives for certain provisions that the Secretary of State would like specific comments on as to preference. Types of Transactions Subject to Filing Requirements. Section 21920(b) contains two alternative proposals concerning the types of transactions which are subject to the filing requirements. Alternative 1 would apply only to issuer transactions. Alternative 2 would apply to both issuer and non- issuer transactions. Definition of "required by law". Section 21920(d) contains four alternative definitions of the term "required by law". The definitions differ with respect to the coverage of issuer or non- issuer transactions and whether the prospectus was prepared pursuant to the statutory anti-fraud provisions in the California Corporations Code and the Securities Act of 1933. Obligation to Update Information. Section 21938 relates to filings of changes of status and two alternatives are proposed. Alternative 1 would terminate the obligation to provide updated information when the distribution of a security has been completed or when the offering has been withdrawn. Alternative 2 would require that changes in status be filed even after a prospectus is no longer current. In each alternative, the filing must be made within thirty days of a change in status. Written comments are due on August 16, 1990 and should be sent to Margery E. Knapp, Staff Counsel, 1230 J Street-Room 100, Sacramento, California 95814. A hearing on the proposed final regulations will be held on August 16, 1990, at 10:00 a.m. in the first floor Multipurpose Room of the Secretary of State's Office, 1230 J Street, Sacramento, California.

We will keep you informed of developments. Patricia Louie Assistant General Counsel
Attachment

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