

MEMO# 4430

January 15, 1993

SEC STAFF ISSUES FAVORABLE RESPONSE TO INSTITUTE LETTER ON AUTOMATIC DIVIDEND REINVESTMENT CONFIRMATION REQUIREMENTS

January 15, 1993 TO: BROKER/DEALER ADVISORY COMMITTEE NO. 3-93 OPERATIONS MEMBERS NO. 6-93 SEC RULES MEMBERS NO. 8-93 SMALL FUNDS MEMBERS NO. 1-93 TRANSFER AGENT ADVISORY COMMITTEE NO. 5-93 UNIT INVESTMENT TRUST MEMBERS NO. 5-93 RE: SEC STAFF ISSUES FAVORABLE RESPONSE TO INSTITUTE LETTER ON AUTOMATIC DIVIDEND REINVESTMENT CONFIRMATION REQUIREMENTS

The Institute is pleased to report that the staff of the SEC's Division of Market Regulation recently issued a favorable response to an Institute request to allow the sending of quarterly, rather than immediate, confirmations to shareholders with respect to automatic dividend reinvestment transactions in investment company shares. The Institute had asked the staff to issue an interpretation under Rule 10b-10 under the Securities Exchange Act of 1934, stating that investment companies' plans or services providing for the automatic reinvestment of dividends or capital gains distributions into the same or another fund are "investment company plans" as defined in paragraph (e)(6)(ii) of the Rule. The staff's letter concurs that automatic dividend reinvestment services conducted in the manner described in their letter constitute "investment company plans" and, therefore, that transactions pursuant to such services may be confirmed on quarterly statements pursuant to paragraph (b) of Rule 10b-10. In the letter, the staff discusses automatic dividend reinvestment services and the time frames within which reinvestments in fund shares should be effected. These time frames vary depending upon whether the reinvestment is made into the same fund or an affiliated fund, or into an unaffiliated fund. In describing these time frames, the staff uses the term "payable date" to connote the date on which a reinvested dividend is paid and the term "reinvestment date" to refer to the date on which additional shares are credited to a shareholder's account. (Although the staff characterized these as two separate events, in practice the payment of a reinvested dividend and placement of additional shares into a shareholder's account are one event, which occurs on a date commonly referred to by industry members as the "reinvestment date.") The staff's letter further states that "[i]n every case, the prospectus of the paying fund or the receiving fund discloses when the reinvestment date occurs relative to the payable date for each dividend." The Institute informed the staff after receiving the letter that fund prospectuses might not contain specific disclosure concerning the payable date for each dividend, but typically would contain a general discussion explaining when reinvestments are made. (Previously, we had explained to the staff that the reinvestment of dividend proceeds into shares of the same

fund, an affiliated fund or an unaffiliated fund would be made at the next forward price following receipt of reinvestment proceeds by such fund.) Consequently, the staff indicated that they will not require disclosure using the specific terms "payable date" and "reinvestment date," so long as there is meaningful disclosure allowing investors to understand when reinvestments will occur. Another point which was further clarified with the staff after receipt of their letter concerns the definition of "cross- reinvestment service" on pages 1-2 of the letter. Specifically, the staff agreed that the account into which "cross-reinvestments" will be made need not necessarily already hold shares as indicated in the staff's letter, but may be an open account that has a zero balance (no actual shares in it). *

* * * * In addition to concurring with the Institute's view that automatic dividend reinvestment plans qualify as "investment company plans" under Rule 10b-10, the staff's letter agrees with the Institute that automatic investment plans and systematic withdrawal plans (as described in the letter) offered by investment companies also are "investment company plans" eligible to use the quarterly confirmation procedures set forth in paragraph (b) of the rule. Copies of the Institute's interpretive request and the staff's response are attached. Frances M. Stadler Kathleen C. Joaquin Assistant Counsel Director - Operations/Fund Accounting Attachments

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