

MEMO# 4786

May 12, 1993

LETTER FROM CHAIRMEN DINGELL AND MARKEY CONCERNING FEDERAL RESERVE'S POSITION ON BANK SPONSORSHIP OF MUTUAL FUNDS

May 12, 1993 TO: BOARD OF GOVERNORS NO. 44-93 BANK INVESTMENT MANAGEMENT MEMBERS NO. 9-93 RE: LETTER FROM CHAIRMEN DINGELL AND MARKEY CONCERNING BANK SPONSORSHIP OF MUTUAL FUNDS

_____ House Energy and Commerce Committee Chairman John Dingell and Telecommunications and Finance Subcommittee Chairman Edward Markey have requested clarification of the Federal Reserve Board's position on whether the Glass-Steagall Act permits bank holding companies to sponsor and underwrite mutual funds. Attached is a copy of the letter from Chairman Dingell and Chairman Markey. The letter was prompted by a recent Board order approving the acquisition by a bank holding company of a mutual fund administrator. (See Memorandum to Board of Governors No. 39-93 and Bank Investment Management Members No. 8-93, dated April 30, 1993.) The bank holding company had stated in its application that it would not sponsor or underwrite mutual fund securities and the Board's order does not confer authority to engage in those activities. Nevertheless, the order stated that the Board "believes that control of [a mutual fund] would continue to rest with the board of directors of the fund, which would be independent of" the adviser. This statement could be read to imply that control of a mutual fund is vested exclusively in the fund's board of directors and that, accordingly, a bank holding company could sponsor and distribute a mutual fund through a Section 20 subsidiary that is not engaged principally in securities underwriting. Thus, according to Chairman Dingell and Chairman Markey, this language "could be read as inviting applications by bank holding companies under Section 4(c)(8) of the Bank Holding Company Act to sponsor, or underwrite the securities of, mutual funds." The letter pointed out that nothing in the Glass-Steagall Act suggests that "control" of a mutual fund is vested exclusively in its board of directors; to the contrary, the statute expressly provides that control may be acquired through means other than stock ownership or board representation. The letter stated that if the order had been intended to imply that control lies solely in the fund's board, then it would represent a "sharp departure" from longstanding Board precedents that "should be accomplished though legislative action accompanied by appropriate investor protections, rather than by administrative fiat." The letter emphasized that: any legal and policy decision by the Board to confer such broad powers on bank holding companies and their Section 20 affiliates would require this Committee to begin a broader examination of the Board's actions in regulating the sales activities of the securities affiliates of bank holding companies. The letter asked for a

response from Chairman Greenspan by May 24, 1993. Matthew P. Fink President
Attachment

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