

MEMO# 11636

February 15, 2000

INSTITUTE FILES COMMENT LETTER ON PROPOSED OCC REGULATIONS RELATING TO NATIONAL BANK SUBSIDIARIES; SOLICITS COMMITTEE MEMBER INTEREST IN ADVISORY GROUP ON BANKING ISSUES

* See Memorandum to SEC Rules Committee No. 14-00, dated January 28, 2000. [11636]
February 15, 2000 TO: SEC RULES COMMITTEE No. 22-00 RE: INSTITUTE FILES COMMENT
LETTER ON PROPOSED OCC REGULATIONS RELATING TO NATIONAL BANK SUBSIDIARIES;
SOLICITS COMMITTEE MEMBER INTEREST IN ADVISORY GROUP ON BANKING ISSUES

The OCC
Proposal and the Institute's Comments As we previously informed you, in January 2000, the Office of the Comptroller of the Currency ("OCC") proposed for comment rules to implement provisions from the Gramm-Leach-Bliley Act (the "GLB Act").* In particular, the OCC has proposed to revise its regulations governing national banks as follows: (1) Section 5.34, relating to operating subsidiaries, would be amended to permit a bank to engage in certain types of activities through an operating subsidiary by providing the OCC notice of such activities, rather than having to file an application with the OCC prior to engaging in such activities; and (2) Section 5.39 would be created to govern the regulation of financial subsidiaries of a national bank. In response to the OCC's request for comments, the Institute filed the attached letter. The letter expresses support for the revisions to Section 5.34 and, in particular, the provision of subdivision (e)(3) of the rule. This subdivision would clarify that, consistent with the functional regulation provisions of the GLB Act, the OCC's examination and supervision authority over operating subsidiaries is subject to the limitations and requirements of Section 45 of the Federal Deposit Insurance Act (the "FDI Act") and Section 115 of the GLB Act. Because proposed Section 5.39 does not include a similar provision recognizing the functional regulation provision of the GLB Act, the Institute's letter recommends that this proposed new rule be revised to include such a provision. Institute Advisory Group on Banking Issues In the wake of passage of the GLB Act, the Institute believes it is appropriate to create an advisory group on issues or regulatory proposals that relate to banks or other types of federally registered financial institutions that may be of interest to investment companies (e.g., the OCC proposal discussed above). If you are interested in these issues, please return the attached sheet by fax to the Institute at your earliest convenience. The Institute will create a mailing list of the

advisory group members in order to ensure that they receive a copy of any future memoranda from the Institute relating to these issues. Please note that, in the future, the Institute plans to send its memoranda relating to banking issues and rule proposals only to the members of the advisory group rather than to the entire SEC Rules Committee. Accordingly, persons with an interest in continuing to receive these memoranda must return the attached sheet relating to the advisory group. Members of the SEC Rules Committee who signed up for the advisory group at the February 15th meeting of the Committee need not return the attached sheet in order to be a member of the advisory group. Persons with questions about the advisory group should contact the undersigned at (202) 326-5825. Tamara K. Reed Associate Counsel Attachments

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