

**MEMO# 6049**

July 14, 1994

## **RESPONSE TO NASAA LETTER ON SUMMARY PROSPECTUS PROPOSAL**

July 14, 1994 TO: DIRECT MARKETING COMMITTEE NO. 17-94 MARKETING POLICY  
COMMITTEE NO. 30-94 PUBLIC INFORMATION COMMITTEE NO. 23-94 SALES FORCE  
MARKETING COMMITTEE NO. 24-94 SHAREHOLDER COMMUNICATIONS COMMITTEE NO.  
16-94 RE: Response to NASAA letter on Summary Prospectus Proposal

Attached is a copy of the Institute's response to the recent letter sent by the North American Securities Administrators Association, Inc., to the SEC's Division of Investment Management regarding the Commission's summary prospectus proposal. The following summary of both letters was produced by our legal staff. I. The NASAA Committee's Letter The Committee's letter enclosed the results of the Committee's survey of state regulators concerning the summary prospectus proposal and purports to set forth "minimum requirements" necessary for widespread acceptance of the summary prospectus among state regulators. The Committee's recommended "minimum requirements" include a requirement that the summary prospectus rule provide for its staged implementation, that the fund and the adviser be "seasoned" before using the summary prospectus, that the summary prospectus be permanently prefiled, and that investors be permitted to obtain a refund of sales charges if they redeem within 10 days of receiving the full prospectus. II. The Institute's Response The Institute's response reiterates the benefits of the summary prospectus, particularly for the defined contribution plan market. The Institute's response also states that the Committee's recommendations simply do not comport with the results of its survey, and that an examination of the survey suggests that it may have been biased in favor of the Committee's own recommendations. The Institute's letter strongly opposes staged implementation of the summary prospectus proposal because it would be "simply illogical" to limit the benefits of more clarified disclosure to the purchasers of "the least complex" funds (such as money market funds). Moreover, staged implementation would undermine the advantages of the summary prospectus for the defined contribution plan market. The Institute's letter also opposes the Committee recommendation for a three-year seasoning requirement for both the fund and the adviser. It notes that such a requirement would serve little purpose, would restrict the dissemination of useful information about newer funds (as well as established funds with new advisers), and would act as a barrier to entry into the industry. The proposal also could chill the creation of new funds that are particularly well-suited for the retirement market. In addition, the Institute's letter opposes the Committee's recommendation that summary prospectuses be permanently prefiled with the states and the SEC or the NASD. It points out that the Committee's survey did not indicate a state prefiling requirement is necessary for widespread state acceptance. Moreover, a state prefiling requirement could undermine the utility of the summary prospectus and deprive most investors of the advantages provided by the summary

prospectus. The Institute's letter does propose that the NASD designate an official to serve as the principal liaison with the SEC and NASAA for matters related to summary prospectus disclosure. Finally, the Institute's letter opposes the Committee's recommendation for a sales charge rebate provision. The Institute's letter points out that summary prospectuses would contain all information that is material to the investor's decision, including the existence of a sales load that is not refundable on redemption. Moreover, to the extent any summary prospectus contained misleading information or omitted material information, full prospectus liability would apply. Finally, a sales charge rebate provision would raise operational problems and impose costs on all shareholders. Erick Kanter Vice President Public Information & Marketing Attachments

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