

MEMO# 2754

May 13, 1991

INSTITUTE COMMENTS ON SEC PROPOSAL TO EXCLUDE TAX-EXEMPT MONEY MARKET FUNDS FROM BOARD RATIFICATION REQUIREMENT

May 13, 1991 TO: SEC RULES COMMITTEE NO. 27-91 MONEY MARKET FUNDS AD HOC COMMITTEE NO. 11-91 RE: INSTITUTE COMMENTS ON SEC PROPOSAL TO EXCLUDE TAX-EXEMPT MONEY MARKET FUNDS FROM BOARD RATIFICATION REQUIREMENT

As you know, the SEC, in response to concerns raised by the Institute, proposed to amend Rule 2a-7 of the Investment Company Act to exclude tax-exempt money market funds from the recently adopted requirement that the board of directors of a money market fund approve or ratify the acquisition of any security that is unrated, or is rated by only one rating agency. (See Memorandum to SEC Rules Members No. 24-91, Money Market Members - One Per Complex No. 8-91, Money Market Funds Ad Hoc Committee No. 10-91, dated April 9, 1991.) Attached is a copy of the Institute's comment letter on the proposal. In its letter, the Institute supported the proposal, and recommended that taxable money market funds as well as tax-exempt funds be excluded from the board ratification requirement. The Institute commented that while the requirement would be less burdensome for taxable funds than tax-exempt funds because of the significantly smaller number of single-rated and unrated securities purchased by taxable funds, it is fundamentally inappropriate since it would require the board to perform credit analysis. The proper role of the board of directors is to oversee the operations of the fund, which are carried out, in most cases, by the fund's adviser or manager. Fund boards simply lack the technical expertise to perform credit analysis. Moreover, if required to perform such a function, the board would be forced to dedicate less time during meetings to those responsibilities that it is more appropriately qualified to address. The Institute noted in its letter that there are several other regulatory requirements under the Investment Company Act that impose inappropriate duties and responsibilities upon a fund's board of directors (such as Rule 17f-5). The Institute recommended that the SEC and its staff reconsider the allocation of responsibilities between the board and the fund's adviser where technical expertise is required. The Institute plans to submit a follow-up letter to the staff discussing the appropriateness of the board's responsibilities under certain provisions of the Act. Amy B.R. Lancellotta Assistant General Counsel Attachment

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.