The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 11431

November 30, 1999

INSTITUTE COMMENT LETTER ON SEC PROPOSED NEW RULE 5B-3 REGARDING REPURCHASE AGREEMENTS AND REFUNDED SECURITIES

1 See Memorandum to Money Market Funds Advisory Committee No. 15-99 and SEC Rules Committee No. 73-99, dated September 30, 1999. 2 See Memorandum to Money Market Funds Advisory Committee No. 17-99 and SEC Rules Committee No. 97-99, dated November 12, 1999. [11431] November 30, 1999 TO: MONEY MARKET FUNDS ADVISORY COMMITTEE No. 18-99 SEC RULES COMMITTEE No. 100-99 RE: INSTITUTE COMMENT LETTER ON SEC PROPOSED NEW RULE 5b-3 REGARDING REPURCHASE AGREEMENTS AND REFUNDED SECURITIES

_____ As we previously informed you, the SEC recently proposed new Rule 5b-3 and related rule amendments under the Investment Company Act of 1940 that would permit investment companies to "look through" counterparties to repurchase agreements and issuers of municipal bonds that have been "refunded" with U.S. Government securities and treat the underlying securities comprising the collateral as investments for certain purposes under the Act.1 The Institute recently filed the attached comment letter with the SEC generally supporting the proposal. The letter is similar to the draft letter we previously circulated to you.2 The Institute’s letter supports the pre-refunded bond proposal, but recommends that the look-through treatment extend to other asset-backed and structured obligations involving Government securities, namely, Certificates of Accrual on Treasury Securities (CATS) and Treasury Investment Growth Receipts (TIGRs). The letter explains that these securities are functionally similar to pre-refunded bonds, thus funds should be permitted to treat them as Government securities for purposes of Section 5(b)(1) of the Act, as well as for any name test and concentration limits that may be imposed. The Institute’s letter also supports the repurchase agreement ("repo") proposal, but with a few modifications. First, the letter recommends that the rule eliminate the creditworthiness evaluation requirement. It notes that a properly structured repo that comports with the other requirements of the proposed rule would enable a fund to reasonably rely on the underlying collateral, rather than the counterparty’s creditworthiness. Second, the letter recommends that the definition of "collateralized fully" not impose a rating requirement. Rather, funds should be able to invest in repos that are collateralized with unrated securities based on a comparable quality determination similar to that permitted under Rule 2a-7. Finally, the letter comments on other aspects of the repo proposal relating to the definition of "collateralized fully" and the proposed modification to Rule 12d3-1 under the Act. Barry E. Simmons Assistant Counsel Attachment