

MEMO# 6610

January 31, 1995

INSTITUTE LETTER TO SEC STAFF ON THE OPERATIONAL BURDENS OF THE NON-SPIC STATUS DISCLOSURE REQUIREMENT

* See Memorandum to SEC Rules Committee No. 134-94 and Unit Investment Trust Committee No. 85-94, dated December 20, 1994. January 31, 1995 TO: SEC RULES COMMITTEE No. 14-95 UNIT INVESTMENT TRUST COMMITTEE No. 10-95 RE: INSTITUTE LETTER TO SEC STAFF ON THE OPERATIONAL BURDENS OF THE NON-SPIC STATUS DISCLOSURE REQUIREMENT

As you know, in December the Institute submitted a letter to the SEC staff urging that the Commission withdraw the new requirement under Rule 10b-10 of the Securities Exchange Act for confirmation disclosure that the mutual fund or unit investment trust underwriter transmitting the confirmation is not a member of SIPC, if such is the case.* The Institute recently submitted the attached letter to the SEC staff in response to a request for additional information about the operational burdens that the requirement would impose. At the outset, the letter states that while the Institute is pleased that the staff is considering the scope of the new disclosure requirement, including its operational impact, we "would urge once again, however, that the Division reconsider the necessity and desirability of this disclosure overall." In this regard, the letter states, "As applied to mutual fund and unit investment trust underwriters that Congress exempted from SIPC coverage, such disclosure is inappropriate, likely to prove highly misleading to investors and simply should not be required." With respect to the operational burdens, the letter states that where a mutual fund or unit investment trust underwriter has agreed to send out the confirmation on behalf of the broker that is carrying the customer account, it would have to determine initially the broker's SIPC status and continuously monitor for any changes in that status. The letter notes that it will be extremely difficult to keep track of such changes, particularly where a fund complex has several thousand selling group agreements. In addition to these burdens, the letter describes the systems enhancements that will be needed to ensure compliance with the new disclosure requirement. We encourage members to send in their own letters to the SEC staff urging that the non- SIPC status disclosure requirement be withdrawn as it applies to mutual fund and unit investment trust underwriters, and request that you send us a copy of your letter. Amy B.R. Lancellotta Associate Counsel Attachment

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