

MEMO# 4851

June 9, 1993

CALLS TO IMPOSE COMMUNITY REINVESTMENT ACT ON MUTUAL FUNDS AND OTHER NON-BANK FINANCIAL INTERMEDIARIES

June 9, 1993 TO: BOARD OF GOVERNORS NO. 53-93 MEMBERS - ONE PER COMPLEX NO. 44-93 RE: CALLS TO IMPOSE COMMUNITY REINVESTMENT ACT ON MUTUAL FUNDS AND OTHER NON-BANK FINANCIAL INTERMEDIARIES

_____. Recently, certain trade associations representing commercial banks have called for the imposition of the Community Reinvestment Act (or similar directed investment requirements) on non-bank financial intermediaries, including mutual funds. Today's New York Times contains an article (a copy of which is attached) that states that the Treasury Department is intending to study whether money market funds should be subjected to the CRA. The Institute will vigorously oppose any efforts to impose such requirements on mutual funds and their shareholders. We are pleased that Acting SEC Chair Mary Schapiro has sent a letter to Treasury Undersecretary Frank Newman indicating that the SEC also believes that CRA should not be extended to mutual funds. A copy of Commissioner Schapiro's letter is attached. As Commissioner Schapiro's letter states, CRA was enacted primarily to eliminate the practice of redlining by banks. Congress noted that the benefits that banks receive from the government, including deposit insurance, access to low-cost credit, and restricted competition, confer substantial economic benefits on banks and therefore felt it was appropriate for banks to be required to serve their communities as a quid pro quo. These policy reasons do not apply to mutual funds. Moreover, as the letter states, mutual funds are required by the Investment Company Act to be managed in the sole interests of their shareholders. Imposing community reinvestment requirements on mutual funds would force fund managers to take into account factors other than the interests of shareholders, which would be fundamentally incompatible with the requirements of the Investment Company Act. Indeed, the imposition of such requirements on mutual funds would amount to an unfair tax on mutual fund shareholders. The Institute expects to meet with Undersecretary Newman in the near future to discuss our serious concerns over this matter. In the interim, members may wish to refer to this memo and the enclosed SEC letter in responding to any inquiries on this subject. We will keep you advised as this matter develops. Matthew P. Fink
President Attachment

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