The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 10371

October 14, 1998

TREASURY FINAL RULE ON CONVERSION OF FEDERAL PAYMENTS TO ELECTRONIC FUNDS TRANSFER

1 Department of the Treasury, Management of Federal Agency Disbursements, 63 Fed. Reg. 51490 (September 25, 1998) (the "Release"). The Release notes that Section 31001(x) of the Debt Collection Improvement Act of 1996 amends Section 3332 of Title 31 of the U.S. Code and requires Federal agencies to convert Federal payments from checks to EFT. Treasury's actions revise 31 CFR Part 208 (the "Final Rule"). See also Department of the Treasury, Management of Federal Agency Disbursements, 62 Fed. Reg. 48714 (September 16, 1997) (the "Proposed Rule"). 2 Treasury's EFT web site contains additional information on the Final Rule, including, among other things, a fact sheet on the new regulations, an explanation of key regulatory provisions for federal agencies, and a list of commonly asked questions related to EFT issues. This information is located at www.fms.treas.gov/eft/. 1 [10371] October 14, 1998 TO: OPERATIONS MEMBERS No. 28-98 SEC RULES MEMBERS No. 83-98 TRANSFER AGENT ADVISORY COMMITTEE No. 64-98 RE: TREASURY FINAL RULE ON CONVERSION OF FEDERAL PAYMENTS TO ELECTRONIC FUNDS TRANSFER

_____ The Treasury Department has issued a final rule implementing legislation requiring Federal agencies to convert all Federal payments (other than tax refund payments) from paper-based methods to electronic funds transfer ("EFT").1 The Release, among other things, sets forth requirements for accounts to which Federal payments may be sent by EFT, and provides for the designation of financial institutions as "financial agents" for purposes of implementing electronic benefits transfer programs. As discussed below, as the Institute recommended in a comment letter on the Proposed Rule, the Final Rule will permit recipients of Federal payments to direct such payments to an account established through a registered investment company or its transfer agent. The Final Rule is effective January 2, 1999. The Release is attached, and it is summarized below.2 The Final Rule requires Federal payment recipients to (1) designate a financial institution (i.e., a bank) or authorized agent to which the Federal payments shall be made, and (2) provide the agency making the payments with the information needed to make the payment by EFT. As part of these requirements, the Final Rule also requires that the account at the designated financial institution be "in the name of" the recipient, with two exceptions. The first exception addresses cases in which an authorized payment agent, i.e., a representative payee or fiduciary, has been selected to receive the payment. The second exception addresses cases in which the Federal payment is deposited into an investment account on behalf of the recipient. Under the Proposed Rule, the investment account exception would have permitted Federal payments to be deposited into an investment account established through an SEC-registered broker/dealer, on the condition that the account and associated records are structured so

that the 2recipient’s interest is protected under the applicable Federal or State deposit insurance regulations. As noted above, the Institute submitted a comment letter on the Proposed Rule, which recommended certain changes in the investment account exception. We are pleased to inform you that the Final Rule has incorporated our recommendations as follows. First, the investment account exception has been expanded to include investment accounts established through a registered investment company or its transfer agent. The Institute’s letter recommended this expansion as it would not only promote Treasury’s goal of increasing participation in the nation’s financial system but also make the process of investing in a mutual fund more efficient. The letter also noted that, like broker/dealers, mutual funds similarly are subject to myriad regulations, including an established registration and inspection regime administered by the SEC. Second, the exception no longer includes a deposit insurance requirement. The Institute’s letter had opposed this requirement because the nature of investment accounts in the mutual fund context makes it impractical to implement such a requirement. The costs and burden of restructuring operations to establish and maintain a system that would provide individual deposit insurance coverage would far outweigh any possible benefit to payment recipients. Funds deposited into an account in the name of a mutual fund in most cases remain in the account only for a limited period of time before being transferred to the specific investment vehicle, thus, any applicable deposit insurance would apply only briefly. Moreover, any recipient depositing a payment into a mutual fund account would already have established an account with the fund, and therefore would have received a prospectus, and thus would already be aware of the uninsured nature of the investment and the associated risks. Barry E. Simmons Assistant Counsel Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Library Services Division at (202)326- 8304, and ask for this memo's attachment number: 10371.
