

**MEMO# 4745**

April 30, 1993

## **OCC LETTER ON COMMON BANK-MUTUAL FUND NAMES**

April 30, 1993 TO: BOARD OF GOVERNORS NO. 38-93 BANK INVESTMENT MANAGEMENT MEMBERS NO. 7-93 RE: OCC LETTER ON COMMON BANK-MUTUAL FUND NAMES

\_\_\_\_\_ The Comptroller of the Currency recently released the attached interpretive letter concerning the use of a national bank's name by the bank's proprietary mutual funds. In the letter, the OCC expressed concern that "some customers may believe that the [mutual funds] are backed by the Bank or are insured deposits." The letter also noted that the bank could incur liability under the federal securities laws if customers are so misled. The OCC suggested that the bank consider alternative names that might avoid this confusion. The letter also expressed the OCC's concerns with possible conflicts of interest that could arise from the bank's management of the mutual funds. In particular, the OCC reiterated that its regulations would prohibit an operating subsidiary from both advising the funds and managing trust assets that are placed in the funds, unless authorized by the trust instrument, court order, or local law. The letter also expressed concern about possible conflicts if the operating subsidiary manages the bank's investment portfolio, although the letter indicated that the bank is developing policies to control such conflicts. As we previously informed you, Energy and Commerce Chairman John Dingell recently requested that the OCC, the Securities and Exchange Commission, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision furnish information concerning the use of bank names by bank-managed mutual funds. (See Memorandum to Board of Governors No. 25-93 and Bank Investment Management Members No. 3- 93.) We will send you the replies of these agencies when they are available. Thomas M. Selman Assistant Counsel Attachment