

**MEMO# 4436**

January 22, 1993

## **INSTITUTE SUBMITS PROPOSAL TO SEC STAFF ON RULE 17F-5**

January 22, 1993 TO: BOARD OF GOVERNORS NO. 5-93 SEC RULES COMMITTEE NO. 9-93 INTERNATIONAL COMMITTEE NO. 3-93 RE: INSTITUTE SUBMITS PROPOSAL TO SEC STAFF ON RULE 17f-5 \_\_\_\_\_ On January 19, 1993, the Institute submitted the attached proposal to the SEC's Division of Investment Management, recommending amendments to Rule 17f-5, the rule under the Investment Company Act of 1940 that governs foreign custody of mutual fund assets. In the May, 1992 Report Protecting Investors: A Half Century of Investment Company Regulation, the staff states that Rule 17f-5 should be revised to eliminate unnecessary and burdensome obligations placed on fund boards of directors. The Institute's proposal, which was developed by a subcommittee of interested members of the SEC Rules Committee and the International Committee, is intended to implement this recommendation. Under the Institute's proposal, the board of directors would be able to delegate the selection of foreign custodians and management of the arrangements to a qualified U.S. custodian or the fund's adviser. Delegation would be subject to a number of conditions, including a) board approval of the procedures to be used to select foreign custodians, b) representations from the board's delegate regarding the foreign custody contract, the safekeeping procedures to be used by the foreign custodian, and the existence of insurance or indemnification provisions, and c) periodic reports to the board regarding the foreign custody arrangements. The Institute's proposal addresses only the role of the board of directors under the rule. Other issues, such as the rule's definition of "eligible foreign custodian" will be addressed in future submissions to the SEC staff. We will keep you informed of developments. Matthew P. Fink  
President Attachment