

**MEMO# 5174**

September 22, 1993

# **UPDATED DRAFTING GUIDES FOR CODES OF ETHICS AND PROCEDURES TO PREVENT INSIDER TRADING**

September 22, 1993 TO: BOARD OF GOVERNORS NO. 83-93 CLOSED-END FUND MEMBERS NO. 30-93 COMPLIANCE COMMITTEE NO. 20-93 INVESTMENT ADVISER MEMBERS NO. 48-93 MEMBERS - ONE PER COMPLEX NO. 64-93 SEC RULES MEMBERS NO. 73-93 UNIT INVESTMENT TRUST MEMBERS NO. 35-93 RE: UPDATED DRAFTING GUIDES FOR CODES OF ETHICS AND PROCEDURES TO PREVENT INSIDER TRADING

As you may know, Rule 17j-1 under the Investment Company Act requires all registered investment companies and their investment advisers and principal underwriters to adopt codes of ethics and reporting requirements to prevent fraud. In addition, Section 204A of the Investment Advisers Act requires every investment adviser to maintain procedures to detect and prevent insider trading by the investment adviser or any person associated with the adviser. The Institute makes available to its members a drafting guide for Rule 17j-1 codes of ethics and a drafting guide on procedures under Section 204A of the Investment Advisers Act. The Institute recently formed an ad hoc task group of members and retained outside counsel to review and update both guides. Attached are copies of the updated guides.

1. Drafting Guide for Codes of Ethics The Institute revised the drafting guide for codes of ethics particularly in light of recent SEC enforcement actions under Rule 17j-1. In general, the guide was revised to clarify the responsibilities of access persons and supervisory personnel. In light of the recent cases, the guide suggests that members consider requiring (1) securities transaction reports for all periods, including those in which no securities transactions were effected and (2) that those reports identify factors potentially relevant to a conflicts of interest analysis. These factors could include the existence of any substantial economic relationship between the transactions and securities held or to be acquired by the investment company.

2. Drafting Guide for Procedures to Detect and Prevent Insider Trading The memorandum preceding the insider trading guidelines has been revised to discuss insider trading law and to outline some general principles that investment advisers should follow when developing procedures. The principal revisions to the guidelines are designed to clarify the responsibilities of supervisors and other personnel and to require that most legal determinations (such as whether information is material and whether a duty exists) be referred to the compliance officer. \* \* \* Due to the diversity of organizations and business operations among member firms, the Institute determined that it is not possible to prepare guidelines that are appropriate for every firm. Therefore, the drafting guidelines are not intended to be models, but are intended to assist individual members in considering a number of issues when preparing policies and procedures tailored to their particular circumstances.

Thomas M. Selman Assistant Counsel Attachments

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