

**MEMO# 5370**

December 1, 1993

# **INSTITUTE REQUESTS REPEAL OR MODIFICATION OF CALIFORNIA INVESTMENT LIMITATION IN OPTIONS OR FUTURES**

December 1, 1993 TO: SEC RULES COMMITTEE NO. 109-93 STATE LIAISON COMMITTEE NO. 55-93 RE: INSTITUTE REQUESTS REPEAL OR MODIFICATION OF CALIFORNIA INVESTMENT LIMITATION IN OPTIONS OR FUTURES

\_\_\_\_\_ The Institute recently submitted the attached letter to the California Commissioner of Corporations to request his review of the California investment restriction that limits the ability of investment companies to invest in options and futures. Section 260.140.85(b)(2) of the Commissioner's rules provides that an investment company may buy and sell puts and calls on securities, stock index futures or options on stock index futures, or financial futures or options on financial futures, if such options are written by other persons, and if: (1) the options or futures are offered through a national exchange approved by the Commissioner, or if listed on a national exchange or commodities exchange; (2) the aggregate premiums paid on all options do not exceed 20% of total net assets; and (3) the aggregate margin deposits do not exceed 5% of total net assets. In its letter, the Institute noted that the use of options and futures provides mutual funds with valuable opportunities in connection with the management of their portfolios, thus permitting fund managers to better serve investors. The letter goes on to detail the extensive federal regulation of investment companies' investments in options and futures by the Securities and Exchange Commission and the Commodities Futures Trading Commission. Given the comprehensive protection provided to investors through the federal regulatory scheme, the letter recommended that the California provision be repealed, or at a minimum, modified so that it is consistent with the federal statutes and regulations. Patricia Louie Associate Counsel Attachment