

MEMO# 8746

March 21, 1997

SEC APPROVES NASD RULE PROPOSAL ON FUND RANKINGS

1 Release No. 34-38369 (Mar. 5, 1997), 62 Fed. Reg. 11510 (Mar. 12, 1997). A copy of the proposal was previously distributed to you; see Memorandum to Advertising Subcommittee No. 32-96 and SEC Rules Members No. 75-96, dated Dec. 9, 1996. March 21, 1997 TO: DIRECT MARKETING COMMITTEE No. 7-97 MARKETING POLICY COMMITTEE No. 10-97 SALES FORCE MARKETING COMMITTEE No. 8-97 SHAREHOLDER COMMUNICATIONS COMMITTEE No. 5-97 RE: SEC APPROVES NASD RULE PROPOSAL ON FUND RANKINGS

The Securities and Exchange Commission has approved the proposal of the NASD to revise its guidelines for the use of rankings in mutual fund advertising and sales literature.¹ Under the NASD's prior guidelines, all rankings based on total return used in fund advertising and sales literature had to be accompanied by rankings from the same entity for one, five and ten year periods (unless the fund was not in existence for the requisite time period). The new guidelines provide that, if one, five and ten year rankings are not published by the ranking entity, the fund may use other rankings from that entity representing short, medium and long term performance. For purposes of the guidelines, the NASDR staff considers "short" to be interpreted as 1-4 years, "medium" as 5-9 years, and "long" as ten years or more. The amendments also clarify that the rankings for these prescribed time periods must be for the same investment category (or subcategory) as the total return ranking(s) that they accompany. The Institute had filed a comment letter supporting the proposal. Our comment letter requested clarification that funds in existence for less than ten years could use only short, or only short and medium, rankings if one year, or one and five year, rankings are not available. The SEC's release does not address this point, but we understand from the NASDR staff that this is permissible. A copy of the SEC's release is attached. Craig S. Tyle Vice President and Senior Counsel Attachment (in .pdf format)