

MEMO# 6418

November 29, 1994

INSTITUTE SUBMITS MUTUAL FUND INTERNAL COMPLIANCE PROPOSAL TO SEC

November 29, 1994 TO: BOARD OF GOVERNORS No. 118-94 COMPLIANCE COMMITTEE No. 22-94 SEC RULES COMMITTEE No. 126-94 MUTUAL FUND INTERNAL COMPLIANCE WORKING GROUP RE: INSTITUTE SUBMITS MUTUAL FUND INTERNAL COMPLIANCE PROPOSAL TO SEC

On November 23, the Institute submitted to the SEC the enclosed proposal for a new rule to require each registered management investment company to establish an internal compliance system that meets certain minimum requirements. Our submission consists of a draft rule and a position paper in support of the rule proposal. As you may know, last fall SEC Chairman Levitt requested the Institute's views on the best way to promote greater self-regulation in the mutual fund industry. On November 19, 1993, the Institute's Executive Committee approved a letter to Chairman Levitt suggesting that an SEC-mandated internal compliance system would be the best way to ensure compliance with regulatory standards. In January 1994, the SEC asked the Institute to prepare a detailed submission setting forth the industry's views on the appropriate scope of an internal compliance rule. In response to the SEC's request, the Institute formed a broad working group on mutual fund internal compliance. This group has been working since early this year to develop a proposal. The proposal also was reviewed by the SEC Rules Committee and the Executive Committee. Under the Institute's proposed rule, each registered management investment company would be required to a) promulgate policies and procedures reasonably designed to promote compliance with the federal securities laws; b) designate one or more individuals to coordinate implementation of the policies and procedures; c) annually review the policies and procedures and the effectiveness of their implementation; and d) annually report to the fund's board of directors regarding the system. A note to the rule would encourage each fund to consider the use of independent testing or review of appropriate aspects of the compliance system. The position paper emphasizes that industry support for an internal compliance rule is contingent on the reasonableness of the obligations imposed on the industry. In particular, our submission notes that a) the industry opposes the imposition of uniform compliance policies and procedures; b) an internal compliance system cannot be expected to provide absolute assurance that violations will not occur; c) the rule should not create new litigation risks for those who act in a reasonable manner; and d) the SEC should commit to use its best efforts to preserve the confidentiality of any compliance documents supplied to the Commission. We will keep you informed of the Commission's response to this proposal. Paul Schott Stevens General Counsel Attachment (in .pdf document) size: 1737 KB

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