MEMO# 11912

May 26, 2000

INSTITUTE RESPONDS TO REQUEST BY MALAYSIAN REGULATOR

1 Malaysia originally imposed an outright ban on repatriations. See Memorandum to International Members No. 19-98, dated September 2, 1998. The Institute sought an exemption from this ban for investment companies registered with the US Securities and Exchange Commission. See Memorandum to International Members No. 28-98, dated November 6, 1998. Although the Malaysian Securities Commission never acted on that request, the ban was replaced with a graduated exit levy system on February 4, 1999. See Memorandum to International Members No. 7-99, dated February 4, 1999. [11912] May 26, 2000 TO: INTERNATIONAL COMMITTEE No. 18-00 EMERGING MARKETS ROUNDTABLE RE: INSTITUTE RESPONDS TO REQUEST BY MALAYSIAN REGULATOR ____ The Malaysian Securities Commission recently asked the Institute how US fund managers view the exit levy imposed on foreign investors in Malaysia. Since September 1, 1998, Malaysia has used currency controls to restrict foreign investors' repatriation of their investments. Since February 1999, repatriations have been permitted, subject to an exit levy. The amount of the levy has steadily decreased from a maximum rate of 30% of principal when it was first introduced to the current rate of 10% of capital gains.1 After discussing the levy with the International Committee and the Emerging Markets Roundtable, the Institute provided informal advice to the Malaysian authorities, as follows. We stressed that while the 10% capital gains rate is a great improvement in the rate of the levy, the existence of a levy in any form continues to make Malaysia less attractive to investors, particularly vis-a-vis other countries in the region that do not impose levies upon the repatriation of assets. We pointed out that there remain significant administrative burdens in monitoring investments in order to properly calculate the levy and that the levy continues to give rise to valuation issues for US mutual funds in determining how to take it into account on a daily basis in valuing their Malaysian holdings. We suggested that these burdens may encourage foreigners to seek equivalent investments offshore, as evidenced by the fact that Institute members' Malaysian exposure appears to have decreased significantly since Malaysia originally put the exit levy in place. We also expressed concern that the levy, which was originally imposed as a short-term crisis management technique, appears to have become permanent. This would seem unnecessary since the Malaysian currency and economic crisis seems to have passed. Robert C. Grohowski Assistant Counsel