

MEMO# 5197

October 1, 1993

NASAA ADOPTS TELEPHONE TRANSACTION GUIDELINES

October 1, 1993 TO: BOARD OF GOVERNORS NO. 88-93 OPERATIONS MEMBERS NO. 32-93 SEC RULES MEMBERS NO. 77-93 STATE SECURITIES MEMBERS NO. 38-93 TRANSFER AGENT ADVISORY COMMITTEE NO. 51-93 RE: NASAA ADOPTS TELEPHONE TRANSACTION GUIDELINES

The Institute is pleased to advise you that members of the North American Securities Administrators Association, Inc. ("NASAA") adopted "Guidelines for Telephone Transactions" ("final guidelines") on September 29, 1993 during the NASAA Fall Conference. The final guidelines adopted by NASAA incorporate several of the Institute's recommendations with respect to the propriety of disclaimers of liability for telephone transactions. In particular, we are very pleased that the final guidelines do not set forth certain mandated procedures a fund must comply with if it disclaims liability for acting upon telephone transactions as originally proposed (e.g., affirmative election of telephone privileges, shareholder selection of a PIN). The final guidelines are very similar to the position taken earlier this year by the Division of Investment Management of the Securities and Exchange Commission with respect to disclaimers of liability. The final guidelines provide that a mutual fund may not disclaim liability for acting upon telephone instructions it reasonably believes to be genuine unless the fund's prospectus and the document in which the investor authorizes telephone transactions includes certain information (e.g., the fund's policy with respect to liability, how the telephone privilege is conferred, that the fund will employ reasonable procedures to confirm telephone instructions, general description of the procedures). This information should be included in the prospectus and other document at the next possible printing of such documents. A copy of the final guidelines is attached. The effective date of the final guidelines is November 29, 1993 (sixty days after the date upon which the vote for adoption occurred). Patricia Louie Associate Counsel Attachment