

MEMO# 9835

April 14, 1998

INSTITUTE COMMENT LETTER ON SEC YEAR 2000 TEMPORARY RULE PROPOSALS FOR TRANSFER AGENTS AND BROKER-DEALERS

* See Memorandum to Accounting/Treasurers Committee No. 13-98, Compliance Advisory Committee No. 8-98, Independent Accountants Advisory Committee No. 3-98, Internal Audit Committee No. 2-98, Investment Advisers Committee No. 10-98, Operations Committee No. 13-98, SEC Rules Committee No. 23-98, Transfer Agent Advisory Committee No. 14-98, and Unit Investment Trust Committee No. 9-98. [9835] April 14, 1998 TO:

ACCOUNTING/TREASURERS COMMITTEE No. 18-98 COMPLIANCE ADVISORY COMMITTEE No. 12-98 INDEPENDENT ACCOUNTANTS ADVISORY COMMITTEE No. 4-98 INTERNAL AUDIT COMMITTEE No. 3-98 INVESTMENT ADVISERS COMMITTEE No. 13-98 OPERATIONS COMMITTEE No. 22-98 SEC RULES COMMITTEE No. 30-98 TRANSFER AGENT ADVISORY COMMITTEE No. 23-98 UNIT INVESTMENT TRUST COMMITTEE No. 12-98 ELECTRONIC COMMERCE ISSUES WORKING GROUP RE: INSTITUTE COMMENT LETTER ON SEC YEAR 2000 TEMPORARY RULE PROPOSALS FOR TRANSFER AGENTS AND BROKER-DEALERS

The Institute recently filed with the Securities and Exchange Commission the attached comment letter regarding the SEC's proposed temporary rule and temporary rule amendment that would require non-bank transfer agents and certain broker-dealers, respectively, to file initial and follow-up progress reports regarding their Year 2000 readiness.* The proposed temporary rules would also require that the follow-up reports include an independent accountant's report attesting to the firm's Year 2000 status. The Institute has been informed by an SEC staff member that as of Monday, April 13, 1998, the Commission is in the process of finalizing approval of a two-week extension of the comment period to Monday, April 27th. Thus, in the event that members decide to submit a comment letter on these proposals, it appears that the Commission will be providing additional time in which to do so. The Institute's letter generally supports the SEC's efforts to monitor the progress of the securities industry's Year 2000 compliance efforts, but opposes extending the proposed reporting requirements to registered investment advisers or investment companies. The letter recommends that certain modifications be made to the proposed rules so as to make them more workable, and notes that should the Commission be disinclined to accept the Institute's recommendations with respect to transfer agents and broker-dealers generally, it should consider implementing our suggestions with respect to mutual fund transfer agents and underwriters. Accordingly, the letter recommends that the Commission: 1. Delete the proposed independent accountant attestation requirement, or modify it to address concerns that independent accountants may not have the requisite technical

expertise or personnel capacity necessary to perform the attestation as presently proposed. 2. Provide that the proposed reports will be treated confidentially. The letter explains that because of the technical nature of the reportsG subject matter, investors could misperceive certain information (particularly with respect to detailed testing information) and draw erroneous conclusions from it, even though the firm could be on schedule with its Year 2000 plan. 3. Clarify that firms (and, if the attestation requirement is not deleted, independent accountants) are not required to guarantee or provide other assurances or certifications that their systems or interfaces (or contingency plans with respect to such systems or interfaces) are fail-safe. 4. Clarify that, subject to board oversight, execution of a firmGs Year 2000 plan may be delegated to a senior officer of the firm, in recognition of the role that a firmGs management plays in executing company policies and procedures. 5. Provide guidance on the format of the reportsG responses, so as to provide some level of uniformity while enabling firms to complete the reports in a timely and more cost-effective manner. 6. Modify the requirement that firms document and report the tasks and responsibilities of each person involved in the Year 2000 effort, so as to permit firms to provide a summary description of the work involved and the name of the person assigned primary responsibility for completing it. 7. Provide guidance on certain timing issues to: (i) clarify that the initial report, which, among other things, would evaluate a firmGs actions as of December 31, 1997, be as of a date more recent in relation to the deadline for filing the report; and (ii) modify the deadline for filing the second transfer agent report to a date that would provide for more even spacing between the initial and second report filing dates.

Barry E. Simmons Assistant Counsel Attachment