

MEMO# 1584

December 14, 1989

JANUARY 12 MEETING TO DISCUSS NY ABANDONED PROPERTY LAW

December 14, 1989 TO: CLOSED-END FUND COMMITTEE NO. 52-89 OPERATIONS
COMMITTEE NO. 25-89 SEC RULES COMMITTEE NO. 77-89 UNIT INVESTMENT TRUST
COMMITTEE NO. 84-89 AD HOC COMMITTEE ON UNCLAIMED PROPERTY RE: JANUARY 12
MEETING TO DISCUSS UNCLAIMED PROPERTY LAWS

We have scheduled a meeting for January 12 at the Institute to discuss unclaimed property laws generally and, specifically, to discuss what action should be taken in response to the amended New York Abandoned Property Law. As we previously informed you, last summer New York amended its Abandoned Property Law with respect to dividend reinvestment plans. (See Memorandum to SEC Rules Members No. 53-89, Unit Investment Trust Members No. 50-89 and Closed-End Fund Members No. 45-89, dated October 3, 1989). In summary, the new law provides that shareholder accounts participating in a fund's dividend reinvestment plan, the owners of which have not had any affirmative written contact with the fund for 5 years, will be deemed abandoned by the state. In contrast, the old law did not cover shareholder accounts which participated in dividend reinvestment plans on the basis that the reinvestment of the dividends constituted sufficient activity with the fund. Moreover, the old law required the return by the post office of corporate notices to shareholders as an element of abandonment. This requirement was eliminated under the new law. A copy of the old New York law and the amendments thereto are attached as Appendix A and B, respectively. It is urgent that action be taken to prevent New York from collecting funds under the new law. In addition, it is important to persuade New York to modify its new law in a more reasonable manner before other states adopt similar provisions. There are several available courses of action for accomplishing this which will be discussed at the meeting. First, a lawsuit could be initiated challenging the constitutionality of the amended law. Second, a lobbying effort could be made to persuade the New York legislature to repeal the new law and to adopt, in its stead, a bill modeled on the securities provision of the Uniform Unclaimed Property Act of 1981. The Institute was instrumental in drafting that provision, which contains a general rule and a specific rule for dividend reinvest accounts. The Uniform Act contains a broader definition of what constitutes sufficient communication with the fund to prevent the account from being deemed abandoned. In addition, the Uniform Act only applies to dividend reinvestment plans if the shareholder has another account which does not participate in such a plan and which has been deemed abandoned. A copy of the securities provision of the Uniform Act is attached as Appendix C. In connection with this second approach, a shareholder campaign could be mounted by members urging their New York shareholders to write to their state representatives to support repeal of the new provision and adoption of the Uniform Act provision. In addition, it is important that you begin implementing procedures for maintaining records of

shareholder communications, such as proxies, and for locating "lost" shareholders. We will discuss suggested procedures at the meeting. Also, attached as Appendix D is a memorandum describing various methods that Institute members have used to locate shareholders. The January 12 meeting is scheduled for 10:00 a.m. Please contact Nancy Inman at 202/955-3515 by January 5 to let her know whether you will be able to attend the meeting . Amy B. Rosenblum Assistant General Counsel Attachments

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