

**MEMO# 8251**

September 18, 1996

# **COALITION SUPPLEMENTAL COMMENT LETTER ON PROPOSED AMENDMENTS TO RULE 17F-5**

1 See Memorandum to Closed-End Fund Committee No. 39-95, International Committee No. 20-95, SEC Rules Committee No. 88-95, Unit Investment Trust Committee No. 60-95, Rule 17f-5 Ad Hoc Subcommittee, dated August 1, 1995. 2 See Memorandum to Accounting/Treasurers Committee No. 31-96, Memorandum to Closed-End Fund Committee No. 21-96, International Committee No. 25-96, SEC Rules Committee No. 79-96, Unit Investment Trust Committee No. 30-96, Rule 17f-5 Ad Hoc Subcommittee, dated July 26, 1996. September 18, 1996 TO: ACCOUNTING/TREASURERS COMMITTEE No. 37-96 CLOSED-END FUND COMMITTEE No. 31-96 INTERNATIONAL COMMITTEE No. 32-96 SEC RULES COMMITTEE No. 102-96 UNIT INVESTMENT TRUST COMMITTEE No. 40-96 RULE 17f-5 AD HOC SUBCOMMITTEE RE: COALITION SUPPLEMENTAL COMMENT LETTER ON PROPOSED AMENDMENTS TO RULE 17f-5

As we previously informed you, the Securities and Exchange Commission proposed amendments to Rule 17f-5 under the Investment Company Act of 1940, the rule that governs the custody of investment company assets outside of the United States.<sup>1</sup> The Commission has not yet taken any formal action on that proposal. Attached is a supplemental comment letter filed by a coalition of banks that act as global custodians of investment company assets held outside of the United States ("Coalition"). The Coalitions letter was filed in response to a letter recently filed with the Commission by the Institute.<sup>2</sup> The Coalitions letter reiterates their view that the Commission only should permit investment company directors to delegate the country-wide custodial risk determination to a funds investment adviser, not to a custodian bank. They argue that this determination is really part of the decision to invest in a given country and, therefore, the two should not be bifurcated. In addition, the Coalition asserts that depending on the funds risk tolerance, investment objectives, and assessment of the markets potential for appreciation, different funds will reach different decisions regarding whether it is appropriate to accept the risks associated with a particular foreign countrys infrastructure. Since the outcome of this balancing of risk and reward will vary from fund to fund, a bank custodian should not be expected to make a uniform decision for its fund customers that fund assets can be reasonably protected in a particular foreign jurisdiction, according to the Coalition. Dorothy M. Donohue Assistant Counsel  
Attachment

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.