

MEMO# 6724

March 3, 1995

DEPARTMENT OF LABOR COMMENT LETTER ON ERISA PREEMPTION OF THE UNIFORM UNCLAIMED PROPERTY ACT

March 3, 1995 TO: OPERATIONS MEMBERS No. 12-95 PENSION MEMBERS No. 14-95
TRANSFER AGENT ADVISORY COMMITTEE No. 16-95 ABANDONED PROPERTY TASK FORCE
RE: DEPARTMENT OF LABOR COMMENT LETTER ON ERISA PREEMPTION OF THE UNIFORM
UNCLAIMED PROPERTY ACT

We are pleased to report that, at the Institute's urging, the Department of Labor sent the attached letter to the National Conference of Commissioners on Uniform State Laws (NCCUSL) regarding their proposed amendments to the 1981 Uniform Unclaimed Property Act. The Department's letter formally states its view that the proposed amendments "would be preempted under section 514(a) of ERISA as applied to employee benefit plans covered by ERISA." Also attached is a copy of the Institute's earlier letter to the NCCUSL Drafting Committee commenting on the ERISA preemption conflict and summarizing our discussions on the subject with the Department of Labor. The NCCUSL Drafting Committee is working on a comprehensive update of the Uniform Unclaimed Property Act, and, in addition to the ERISA preemption conflict, the Institute has been engaged in an ongoing dialog with the Drafting Committee on various other issues of concern to the mutual fund industry. For example, we have commented on specific issues concerning the draft uniform law's application to stock dividends, underlying shares, dividend reinvestment accounts, and retirement saving vehicles that are not ERISA plans, such as, IRAs, 403(b) plans, and government plans. Copies of our comments on those issues are available upon request. We will keep you informed of developments. John J. Canary, Jr. Assistant Counsel - Pension Attachments