

MEMO# 10019

June 16, 1998

RECENT DEVELOPMENTS RELATING TO DATA PRIVACY

[10019] June 16, 1998 TO: SEC RULES COMMITTEE No. 57-98 RE: RECENT DEVELOPMENTS
RELATING TO DATA PRIVACY

The issue of data privacy has received increasing attention in recent months. Within the last two weeks, the Federal Trade Commission has released a report on privacy online, the Department of Commerce has published a discussion paper on the characteristics of effective self-regulation for privacy, and newspaper articles on the leakage of personal financial data have prompted Congressional interest in privacy issues in the financial services industry. The purpose of this memorandum is to bring these three recent developments to the attention of Institute members. This memorandum also requests input on the Institute's response to Commerce's request for comment on its discussion paper. Federal Trade Commission Report to Congress On June 4, 1998, the FTC issued a "Report to Congress on Privacy Online" describing the results of its survey of over two thousand web sites. The FTC found that 97% of the 125 financial sites surveyed collected personal information from consumers, while only 16% post any disclosure about their privacy or information practices. (The FTC's sample did not include enough mutual fund sites to draw any conclusions with respect to investment company disclosure practices on the Internet.) The FTC's press release is attached and the full text of the FTC Survey is available at <http://www.ftc.gov/reports/privacy3/index.htm>. Request for Comment on Department of Commerce Discussion Paper On June 5, 1998, Commerce published a discussion paper proposing "the elements that should be present in a self regulation regime that effectively protects privacy online." The release encourages industry to craft "methods of implementing those elements that best serve its needs and the needs of its consumers." Commerce has requested comment by July 6, 1998. The Federal Register Notice publishing the paper and requesting comment is attached. Press Coverage on Leaks of Personal Financial Data Last week, several news reports highlighted problems involving the release of customer confidential financial information by banks and other financial services providers to persons other than the customer. These reports question the security of all types of financial information, including stock and mutual fund ownership information. In response, Congressman Edward Markey (D-Mass.) sent letters to SEC Chairman Arthur Levitt and Federal Reserve Board Chairman Alan Greenspan asking about the nature and adequacy of current legal protections for the privacy of personal information and stating Congressman Markey's belief that additional legislation is needed in this area in order to protect consumers. Copies of Congressman Markey's letters are attached. * * * * * In light of these developments, members may wish to review their policies with respect to the confidentiality of personal data about individuals to assure that information is not used in

ways that undermine investment company shareholders' privacy expectations. Members with web sites may wish to consider whether to disclose their privacy practices on their web site, particularly if the web site can be used by customers to request information or engage in transactions. In addition, members may wish to review their internal security and control procedures to assure that the procedures are adequate to protect shareholders' personal information. The Institute is currently drafting a response to Commerce's request for comment. Please review the attached Federal Register Notice and provide comments to Bob Grohowski by phone to (202) 371-5430, fax to (202) 326-5841, or e-mail to rcg@ici.org no later than Monday, June 29. Robert C. Grohowski Assistant Counsel Attachments

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