

MEMO# 4962

July 9, 1993

INSTITUTE MEETS WITH NEBRASKA ATTORNEY GENERAL TO DISCUSS BANK SALES OF MUTUAL FUNDS

July 9, 1993 TO: COMPLIANCE COMMITTEE NO. 15-93 INSTITUTIONAL FUNDS COMMITTEE NO. 7-93 SEC RULES COMMITTEE NO. 60-93 STATE LIAISON COMMITTEE NO. 25-93 UNIT INVESTMENT TRUST COMMITTEE NO. 29-93 RE: INSTITUTE MEETS WITH NEBRASKA ATTORNEY GENERAL TO DISCUSS BANK SALES OF MUTUAL FUNDS

As we previously advised you, in an effort to subject certain bank employees to the agent registration provisions of the Nebraska Securities Act, the Bureau of Securities has been requiring investment company registrants to submit a representation that all securities of an investment company distributed or sold in Nebraska will be distributed or sold only through Nebraska registered agents of a Nebraska registered broker-dealer. In response to this requirement, the Institute submitted a letter and met with the Assistant Director of the Bureau to express its concerns with respect to this representation. (See Memorandum to Compliance Committee No. 6-93, Institutional Funds Committee No. 3-93, SEC Rules Committee No. 31-93, State Liaison Committee No. 19-93 and Unit Investment Trust Committee No. 18-93, dated April 6, 1993.) As a result of the controversy this requirement has created, the Assistant Director advised the Institute that the Bureau would be seeking an opinion from the Attorney General as to whether or not the bank exclusion from the definition of "broker-dealer" in the Nebraska Securities Act also excludes employees of a bank from the definition of "agent". It is our understanding that the issue presented to the Attorney General is phrased very narrowly and does not address the representation at all. In order to monitor the Bureau's request for an interpretive opinion, the Institute retained local counsel in Nebraska. Attached is a copy of the Institute's letter to local counsel. Last week, the Institute met with the Nebraska Attorney General to discuss, in general, the manner sales of investment company securities are made on bank premises and the reasons why bank employees should not be required to register as agents of an investment company's distributor. At this meeting, the Attorney General indicated the response to the Bureau's request for an opinion would be issued within the next two weeks. We will keep you advised of developments. Patricia Louie Associate Counsel Attachment