

MEMO# 1736

February 26, 1990

INSTITUTE COMMENTS ON FDIC REGULATIONS CONCERNING PASS-THROUGH INSURANCE FOR UITs; FDIC ISSUES STUDY ON PASS-THROUGH INSURANCE TREATMENT

- 1 - February 26, 1990 TO: SEC RULES MEMBERS NO. 15-90 UNIT INVESTMENT TRUST MEMBERS NO. 11-90 RE: INSTITUTE COMMENTS ON FDIC REGULATIONS CONCERNING PASS-THROUGH INSURANCE FOR UITs; FDIC ISSUES STUDY ON PASS-THROUGH INSURANCE TREATMENT _____ FDIC PROPOSED AMENDMENTS

The Federal Deposit Insurance Corporation (the "FDIC") recently proposed amendments to its deposit insurance regulations. (See Memorandum to Unit Investment Trust Members No. 1-90 and SEC Rules Committee No. 2-90, dated January 8, 1990.) As part of those amendments, the FDIC proposed withdrawing the rule that was proposed last year to grant pass-through insurance treatment to unitholders of unit investment trusts and maintaining the current level of deposit insurance for UIT deposits at FDIC-insured banks, which is up to \$100,000 in the aggregate. Attached is a copy of the Institute's comment letter on the FDIC proposal. In its comment letter, the Institute urged the FDIC not to withdraw the proposed rule extending pass-through insurance treatment to UITs. In addition to recommending that pass-through treatment be extended to UITs, we suggested extending such treatment to managed investment companies as well. The Institute argued that the test for determining whether an entity is eligible for pass-through treatment should be based on whether the entity is a passive investment pool or engaged in an independent commercial activity and not on whether the entity is subject to registration under the Investment Company Act.

FDIC STUDY As we previously informed you, the FDIC was mandated by Congress to prepare a study concerning, among other things, the pass-through of deposit insurance to individual investors in unit - 2 - investment trusts. (See Memoranda to Unit Investment Trusts Nos. 64-89 and 69-89 and SEC Rules Committee Nos. 74-89 and 78-89, dated November 28, 1989 and December 18, 1989.) The FDIC recently completed and presented its study to Congress. The FDIC concluded in its study that there is no persuasive policy rationale for extending pass-through treatment to UIT investors. The FDIC based its conclusion on the assumption that generally UITs are purchased by sophisticated investors and that deposit insurance was not intended to extend to such investors. Attached is the relevant portion of the FDIC study. Amy B. Rosenblum Assistant General Counsel Attachment

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