

**MEMO# 3172**

October 10, 1991

## **INSTITUTE PRESENTATION AT IOSCO CONFERENCE**

October 10, 1991 TO: MEMBERS - ONE PER COMPLEX NO. 49-91 INTERNATIONAL MEMBERS  
NO. 6-91 RE: INSTITUTE PRESENTATION AT IOSCO CONFERENCE

Attached are the text of an Institute presentation and paper, which was the subject of a panel entitled "Meeting the Demand for Pooled Investments in a World Market" during the recent meeting of the International Organization of Securities Commissions (IOSCO). The paper describes the explosive growth of the worldwide mutual fund markets and notes that mutual funds have become established as a preferred investment choice of the growing middle class throughout the world. Notwithstanding this substantial growth, however, progress in cross-border mutual fund sales has lagged far behind efforts toward easier cross-border transactions in other financial areas. Thus, in most parts of the world, existing impediments to cross-border fund sales have caused investment managers to take the only effective available route to international expansion: the establishment of separate foreign subsidiaries in various local markets. The paper further notes that restricting the development of mutual fund markets to a single route requiring the establishment of a foreign subsidiary limits both market efficiency and investor choice. Thus, the availability of a second route to international expansion--cross-border fund sales--would enhance market efficiency and investor choice, while also permitting the realization of economies of scale and other beneficial synergies. One major barrier to cross-border fund sales, differences in the regulatory approach adopted in different jurisdictions, arises from variations in the particular legal form and structure adopted by mutual funds in those jurisdictions. Instead of focusing on regulatory differences resulting from varying organizational structures, the paper proposes a shift in the focus when considering cross-border mutual funds sales. The analysis of any cross-border sales proposal should address seven core investor protection concerns essential to the regulation of a publicly-offered, redeemable securities product rather than structural differences. - 1 - The paper describes seven core investor protection concerns inherent in mutual fund regulation and discusses the manner in which these concerns have been addressed in the laws of six countries: the U.S., the U.K., France, Germany, Japan and Mexico. It is significant that each jurisdiction recognizes and seeks to address each of the identified investor protection concerns. Early efforts to harmonize disparate regulatory schemes are also examined in the paper. The 1972 OECD Standard Rules for the Operations of Institutions for Collective Investment in Securities and the European Community's Directive on Undertakings for Collective Investment in Transferable Securities are examples of two such efforts. The paper concludes with the optimistic prediction that by ignoring organizational structure and focusing on core investor protection concerns, we can achieve greater success in breaking down existing regulatory barriers to

cross-border mutual fund sales to the benefit of the world economy and the world's investors. We will keep you informed of developments. Catherine L. Heron Vice President - Tax & Pension Attachments

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