

MEMO# 15243

October 7, 2002

ASSISTANCE OF MEMBERS REQUESTED IN CONNECTION WITH FACILITATING PAYMENT OF MINNESOTA BLUE SKY FEE REBATES

[15243] October 7, 2002 TO: ACCOUNTING/TREASURERS MEMBERS No. 37-02 COMPLIANCE ADVISORY COMMITTEE No. 84-02 OPERATIONS MEMBERS No. 30-02 STATE SECURITIES MEMBERS No. 7-02 TRANSFER AGENT ADVISORY COMMITTEE No. 87-02 RE: ASSISTANCE OF MEMBERS REQUESTED IN CONNECTION WITH FACILITATING PAYMENT OF MINNESOTA BLUE SKY FEE REBATES As discussed in more detail below, the Institute is sending this memorandum to strongly encourage all mutual funds that have used third party vendors to make their state notice filings in Minnesota during the last fiscal year to contact such vendors and encourage them to facilitate the ability of the Minnesota Department of Commerce to pay rebates mutual funds are entitled to under Minnesota law. Minnesota is one of the few states that does not impose a cap on the amount of notice filing fees paid by mutual funds each year. For years, the Institute has worked with the Minnesota Department of Commerce, which regulates the securities industry in the state, to address our members' concerns with the egregious amount of fees paid to the State annually. In 2000, the Institute was pleased to announce that, as a result of these efforts, Minnesota's Securities Act was amended to provide limited fee relief to mutual fund filers by adding language requiring the Department to refund to all mutual funds, on a pro-rata basis, all mutual fund notice filings fees in excess of \$25 million that were collected by the State during any fiscal year.* This new rebate provision was first applied to the State's 2001 fiscal year (i.e., July 1, 2001- June 30, 2002). As such, with the expiration of the State's 2001 fiscal year on June 30th, the Department calculated that it had raised approximately \$27.5 million from mutual fund filers, resulting in rebates to be paid of \$2.5 million. The Department is currently in the process of sending refund checks to persons or entities that submitted filings during the State's last fiscal year. The Department has contacted the Institute to express dismay and frustration with the responses they are receiving from recipients of the checks that are, or at the time of the notice filing were, service providers to the fund industry. In particular, some of these service * See Institute Memorandum No. 12729 (October 10, 2000) announcing and explaining the rebate provisions that were added to the Minnesota Securities Act during the 2000 legislative session. 2 providers are telling the Department they cannot accept the checks on behalf of individual funds, either because they no longer have a relationship with the fund or because they prefer for the money to be returned to the fund directly. The Department has advised the Institute that it only has the authority to provide refund checks to the person or entity that made the notice filing on behalf of the fund. The responses they are receiving from some service providers appears to be

impeding the ability of the Department to comply with the law. More importantly, the difficulties the Department has encountered in this process has led them to rethink whether they should have the Minnesota Securities Act revised to eliminate the rebates. Needless to say, if the Department pursues elimination of this rebate program, it will not be in the best interest of our members. Accordingly, the Institute is strongly encouraging all mutual funds that have used third party vendors to make their filings in Minnesota to contact such vendors and encourage them to facilitate the ability of the Minnesota Department of Commerce to pay these rebates. We appreciate your assistance in this process. Tamara K. Reed Associate Counsel

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.