

MEMO# 8728

March 14, 1997

INSTITUTE SUBMISSION TO IRS ON PERFORMANCE-BASED ADVISORY FEES

1 See Institute Memorandum to Accounting/Treasurers Committee No. 47-96 and Tax Committee No. 36-96, dated November 26, 1996. 2 See Institute Memorandum to Tax Committee No. 6-97, dated February 20, 1997. March 14, 1997 TO: ACCOUNTING/TREASURERS COMMITTEE No. 8-97 TAX COMMITTEE No. 10-97 RE: INSTITUTE SUBMISSION TO IRS ON PERFORMANCE-BASED ADVISORY FEES

As we previously informed you, last fall the Institute made a submission to the IRS in response to IRS Announcement 96-95, which requested comments regarding the treatment under the preferential dividend rules of (1) expense waivers and reimbursements in multiple-class funds, and (2) investment advisory fees that differ among the classes of a multiple-class fund because the fees are based on the investment performance of each class.¹ At a meeting with IRS representatives to discuss the submission, several questions came up regarding the use of performance-based advisory fees by multiple-class funds.² In response to the IRS' questions, the Institute submitted the attached memorandum, which discusses the SEC rules governing performance fees and waivers and reimbursements of performance fees. We will keep you informed of further developments. Anne M. Barr Associate Counsel - Tax Attachment (in .pdf format)

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