

MEMO# 3429

January 15, 1992

PENNSYLVANIA CLASS ACTION CHALLENGES BANK TRUSTEES' SWEEP PRACTICES AND FEES; DEPARTMENT OF LABOR FILES COUNTERCLAIM IN MINNESOTA CASE ALLEGING IMPROPER SWEEP FEES

January 15, 1992 TO: INSTITUTIONAL FUNDS COMMITTEE NO. 1-92 RE: PENNSYLVANIA CLASS ACTION CHALLENGES BANK TRUSTEES' SWEEP PRACTICES AND FEES; DEPARTMENT OF LABOR FILES COUNTERCLAIM IN MINNESOTA CASE ALLEGING IMPROPER SWEEP FEES

As discussed at the December 16 meeting of the Institutional Funds Committee, two trust beneficiaries have filed a class action lawsuit in the United States District Court for the Eastern District of Pennsylvania challenging the practices of certain bank trustees of periodically sweeping uninvested cash from trust accounts into short-term investments (including affiliated mutual funds) and charging fees for this service. Enclosed for your information are copies of the complaint (which also was distributed at the Committee's December 16 meeting) and of the answers of the two named defendant bank trustees. In a separate case referred to at the December 16 Committee meeting, the Department of Labor has filed a counterclaim against a bank and its two subsidiaries in the United States District Court for the District of Minnesota alleging that the banks improperly charged sweep fees to employee benefit plans for which they served as trustee, without disclosing those fees and in violation of ERISA self-dealing provisions. Copies of the Labor Department's Answer and Counterclaim and of a related press release are enclosed. We will keep you informed of developments. Frances M. Stadler Assistant General Counsel Enclosures

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