

MEMO# 7590

January 30, 1996

SEC ENFORCEMENT ACTIONS INVOLVING SALE OF MUNICIPAL SECURITIES BY ORANGE COUNTY

1 Statement by SEC Chairman Arthur Levitt on Orange County (Jan. 24, 1996); Litigation Release No. 14792 (Jan. 24, 1996); In the Matter of Orange, California, Orange County Flood Control District, and County of Orange, California Board of Supervisors, Admin. Proc. File No. 3-8937, Exchange Act Rel. No. 36760 (Jan. 24, 1996); Report of Investigation in the Matter of County of Orange, California As It Relates to the Conduct of the Members of the Board of Supervisors, Exchange Act. Rel. No. 36761 (Jan. 24, 1996). January 30, 1996 TO: MONEY MARKET FUNDS AD HOC COMMITTEE No. 1-96 RE: SEC ENFORCEMENT ACTIONS INVOLVING SALE OF MUNICIPAL SECURITIES BY ORANGE COUNTY

The Securities and Exchange Commission recently filed and settled its first enforcement actions relating to its investigation of the sale of municipal securities by Orange County, California. The SEC filed a complaint in the United States District Court against former Orange County Treasurer-Tax Collector, Robert Citron and former Assistant Treasurer, Matthew R. Raabe, and a cease and desist order against Orange County, the Orange County Flood Control District and the Board of Supervisors of Orange County. All of the defendants were charged with violating Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and rule 10b-5 thereunder. Each of the defendants entered into a settlement agreement with the SEC. The SEC also issued a Report of Investigation pursuant to Section 21(a) of the Securities Exchange Act concerning the conduct of individual members of the Board of Supervisors of Orange County. The Supervisors consented to the issuance of the Report without admitting or denying any of the statements or conclusions made therein. Copies of a statement by Chairman Arthur Levitt, the SECs litigation release and administrative order concerning the actions and settlement and the Section 21(a) Report are attached.¹ The actions concern the fraudulent offer and sale of over \$2.1 billion in eleven municipal securities offerings issued in 1993 and 1994 by Orange County, the Flood Control District and a school district located within Orange County (that was not named in the actions). The SEC alleged that Orange County, the Flood Control District, the Board of Supervisors, Citron and Raabe all variously made material misstatements and omissions of fact in the Countys Official Statements regarding: The County Pools, including the County Pools investment strategy and investment results, manipulations of the County Pools yield and investment in the County Pools of the funds pledged to repay the municipal securities; Orange Countys financial condition, including its economic reliance on interest income from the County Pools as a source of funds to repay the purchasers of the securities; the tax-exempt status of the offering; an undisclosed interest rate cap on certain variable rate securities sold in the offering; and the unauthorized use of an audit report

prepared by an outside accounting firm. It was also alleged that, in connection with the offer and sale of certain of the securities, misrepresentations were made to national securities rating agencies concerning the County Pools. With respect to the Section 21(a) Report, the SEC emphasized the responsibilities under the federal securities laws of local government officials who authorize the issuance of municipal securities and related disclosure documents and the critical role these officials play concerning the representations made in the Official Statements for those securities. The Report also emphasized that, in authorizing the issuance of securities and related disclosure documents, public officials must not authorize disclosure that they know to be false; nor may public officials authorize disclosure while recklessly disregarding facts that indicate that there is a risk that the disclosure may be misleading. The Report stated that Orange Countys Board of Supervisors approved Official Statements that, among other things, failed to disclose material information about the Countys financial condition that brought into question the Countys ability to repay its securities absent significant interest income from the County Pools. According to the Report, the Supervisors were aware of material information concerning Orange Countys financial condition and failed to take appropriate steps to assure the disclosure of these facts. Accordingly, the Report concluded, the Supervisors failed to fulfill their obligations under the antifraud provisions of the federal securities laws in authorizing the issuance of the municipal securities and related disclosure documents. Alexander C. Gavis Assistant Counsel Attachment