

MEMO# 6840

April 7, 1995

SEC NO-ACTION LETTER CONCERNING RULE 482 TREATMENT OF INFORMATION FOR RETIREMENT PLAN PARTICIPANTS

April 7, 1995 TO: SEC RULES COMMITTEE No. 53-95 SUBCOMMITTEE ON ADVERTISING No. 5-95 RE: SEC NO-ACTION LETTER CONCERNING RULE 482 TREATMENT OF INFORMATION FOR RETIREMENT PLAN PARTICIPANTS

_____ The Securities and Exchange Commission recently issued the attached no-action letter concerning the treatment of certain information designed for retirement plan participants under Rule 482 of the Securities Act of 1933. An affiliate of a mutual fund adviser, which provides service to participant-directed defined contribution plans (the "Plan Servicer"), requested the relief. The plans serviced by the Plan Servicer typically offer funds of the adviser as investment options for the employees. The Plan Servicer provides materials to assist plan sponsors in satisfying their obligation to supply plan participants with information about their choice of investment options and provides statutory prospectuses to the sponsor for each of the adviser's funds available under a retirement plan. Employers typically make these prospectuses available to employees and plan participants may contact the Plan Servicer to obtain copies. The Plan Servicer proposed to supplement the information currently available to employees of the plans serviced by the Plan Servicer with summaries of the prospectuses of the adviser's funds that are investment options under the plan ("SPRs"). Each SPR would provide summary information regarding the available funds' investment objectives, policies and risks, expenses, historical performance, and distribution practices, and would contain a legend instructing employees how they may obtain a fund's statutory prospectus before making an investment choice. An SPR also would include instructions regarding how plan participants can enroll in their employer's plan and allocate contributions to one or more of the investment options. The SPR would include only information the substance of which is contained in the statutory prospectuses of the available funds. In some instances, employers will accompany an SPR with a plan enrollment form that, among other things, contains instructions with respect to payroll deduction and allocation of a participant's retirement plan contributions among investment options. In its no-action request, the Plan Servicer stated that the instructions should not be deemed an application for purposes of Rule 482(a)(5) because the participant's response to the instructions would be directed to the plan sponsor and not to a seller of fund shares. In following the instructions, plan participants would not complete an application and send money to a fund or its underwriter, but would simply authorize the plan trustee to purchase fund shares for the plan, using pre-tax employee and/or employer contributions. Thomas M. Selman Associate Counsel Attachment

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