

MEMO# 9689

February 20, 1998

MERCOSUR INITIATIVE TO PERMIT CROSS-BORDER MUTUAL FUND SALES

[9689] February 20, 1998 TO: INTERNATIONAL COMMITTEE No. 7-98 RE: MERCOSUR
INITIATIVE TO PERMIT CROSS-BORDER MUTUAL FUND SALES

_____ At the International Committee meeting on January 27, 1998 members expressed interest in obtaining more information about a reported initiative by Mercosur countries to permit a mutual fund organized in one Mercosur country easily to be sold in other Mercosur countries. We have obtained the following additional information, set out below, from discussions with officials of Brazil's CMV. No written documents about the initiative are available at this time. Securities regulatory officials in the Mercosur countries, Argentina, Brazil, Paraguay and Uruguay, recently agreed on a regulatory framework for cross-border mutual fund sales and are negotiating the details of the regime. They expect to allow open-end funds organized in one Mercosur country that meet certain requirements to be sold in the other countries under a streamlined regulatory procedure. To qualify, a fund must have at least 51% of its assets invested in equity securities and invest at least 51% of its assets in the country in which the fund is organized. Any fund purchases of securities of issuers in non-Mercosur countries must be in the form of depository receipts held in Mercosur countries. (The requirements to have at least 51% of fund assets in equity securities and hold foreign securities as depository receipts apparently derive from specific requirements of one or more countries.) In addition, there likely will be a requirement that the first year a fund is sold on a cross-border basis it only can be sold to institutional investors. To make cross-border sales, a fund likely will be required to send host country securities regulators copies of its prospectus and local distribution contracts. Regulators are discussing the disclosure requirements that will apply to cross border sales. Mercosur securities regulators hope to implement the cross-border regime in 1999. Please let me know if there are particular issues concerning the proposal that you believe the Institute should raise with Mercosur securities regulators at this time. You can reach me by phone at 202 326-5826 or by fax at 202 326-5841. Mary S. Podesta Associate Counsel