

MEMO# 7408

November 10, 1995

OHIO ISSUES RULE PROPOSAL ON ILLIQUID SECURITIES

November 10, 1995 TO: SEC RULES COMMITTEE No. 119-95 STATE SECURITIES MEMBERS
No. 46-95 UNIT INVESTMENT TRUST MEMBERS No. 58-95 RE: OHIO ISSUES RULE PROPOSAL
ON ILLIQUID SECURITIES

_____ We are pleased to inform you that the Ohio Division of Securities has proposed for comment amendments to Rule 1301:6-3-09(12) that would conform Ohio's treatment of Rule 144A securities to that of federal law. In particular, amendments to Rule 1301:6-3-09(12) would (1) delete any reference to restricted securities and to securities of unseasoned issuers, and (2) provide that no more than 15% of an investment company's assets may be invested in illiquid securities. For purposes of determining compliance with the 15% limitation, securities that are eligible for resale pursuant to Rule 144A that have been determined by the investment company's board of directors to be liquid would not be treated as illiquid. The amendments would also provide that commercial paper that is sold under Section 4(2) of the Securities Act of 1933 would not be considered illiquid if it is "not traded flat or in default as to interest or principal" and is either (1) rated in one of the two highest categories by at least two NRSROs and determined by the investment company's board of directors or trustees to be liquid or (2) rated in one of the two highest categories by one nationally recognized statistical rating agency and determined by the investment company's board of directors or trustees to be of equivalent quality and liquid. In contrast to federal law, the proposal will not consider unrated commercial paper to be illiquid even if the investment company's board of directors determines that the paper is of equivalent quality to rated paper. The Institute strongly encourages its members to write to the Ohio Division of Securities to (1) express support for the proposed amendments as they relate to Rule 144A and rated commercial paper, and (2) strongly recommend that the Division (i) conform its treatment of unrated commercial paper to federal law and (ii) amend other provisions in Rule 1301:6-3-09 to conform them to federal law. The other provisions in the Rule that are not uniform with federal law are: Paragraph (1) relating to ownership of shares by the investment company, its advisors, or managers; Paragraph (3) relating to custody arrangements; Paragraphs (7) and (8) relating to diversification requirements; Paragraph (9) relating to investments in other registered investment companies; Paragraph (10) relating to borrowing; Paragraph (13) relating to limits on load, sales charges, and redemption fees; Paragraph (14) relating to expense limits; and Subsections (F) and (G) relating to additional disclosure requirements and investment restrictions. A copy of the proposed amendments to Rule 1301:6-3-09 is attached. Comments on the rule proposal are due to the Ohio Division of Securities no later than Tuesday December 12, 1995 and should be sent to: Mark Holderman, Commissioner of Securities, Ohio Division of Securities 77

South High Street, 22nd Floor, Columbus, Ohio 43266-0548. Persons wishing to have comments included in the Institutes comment letter should provide me your comments by phone (202/326-5825) or by fax (202/326-5839) no later than Friday, December 1, 1995. Persons filing comments directly with the Ohio Division are requested to provide the Institute a copy of such comments. Tamara K. Cain Assistant Counsel Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Information Resource Center at (202)326-8305 or (202)326-5903, and ask for this memo's attachment number: 7408.

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