

MEMO# 2659

April 2, 1991

SEC DELEGATES AUTHORITY TO THE DIRECTOR OF THE DIVISION OF INVESTMENT MANAGEMENT TO GRANT RELIEF UNDER SECTION 9(C)

April 2, 1991 TO: SEC RULES MEMBERS NO. 23-91 SMALL FUNDS MEMBERS NO. 5-91 RE:
SEC DELEGATES AUTHORITY TO THE DIRECTOR OF THE DIVISION OF INVESTMENT
MANAGEMENT TO GRANT RELIEF UNDER SECTION 9(c)

The SEC recently delegated to the Director of the Division of Investment Management (the "Director") the authority to grant permanent and, in some cases, temporary relief pursuant to section 9(c) of the Investment Company Act to applicants disqualified by section 9(a)(3) of the Act from serving in certain capacities with respect to investment companies. Attached is a copy of the SEC release delegating that authority to the Director. Section 9(a)(3) prohibits a company from acting in certain capacities with respect to investment companies, including acting as investment adviser or principal underwriter, if any of its employees are subject to a securities-related injunction under section 9(a). Section 9(c) permits any company disqualified from acting in any such capacity by reason of section 9(a) to file with the SEC an application for exemption from that subsection. The SEC has recently received several exemptive applications seeking relief for firms that are disqualified under section 9(a) because one of their employees is subject to a securities related injunction. The SEC notes in the release that, "The circumstances under which the Commission has granted relief under section 9(c), and the conditions for that relief, have become standardized." It is anticipated that future orders pursuant to section 9(c) would be subject to similar conditions. Therefore, the SEC has determined to delegate to the Director the authority to grant relief to applicants disqualified under section 9(a)(3) where: a. The disqualification arises solely because the applicant employs, or will employ, a person who has been convicted of any of the offenses, or enjoined from any of the activities, specified in section 9(a)(1) or (2); and b. Such employee is not involved in any of the investment company activities from which the applicant is disqualified. Amy B.R. Lancellotta Assistant General Counsel Attachment