

**MEMO# 4658**

April 1, 1993

## **INSTITUTE COMMENTS ON PROPOSED AMENDMENT TO TEXAS MONEY MARKET CONDITIONAL EXEMPTION**

April 1, 1993 TO: SEC RULES COMMITTEE NO. 29-93 STATE LIAISON COMMITTEE NO. 17-93  
RE: INSTITUTE COMMENTS ON PROPOSED AMENDMENT TO TEXAS MONEY MARKET  
CONDITIONAL EXEMPTION \_\_\_\_\_

As we previously informed you, the Texas Securities Board proposed an amendment to 123.3 to expand the category of money market funds qualifying for the conditional exemption which would allow these funds to pay a reduced registration fee. The proposed amendment would allow a money market fund with an asset-based sales charge of 0.25 percent or less to qualify for the conditional exemption. In addition, the proposed amendment adds several new portfolio requirements which relate to maturity, repurchase agreements and investing in other investment companies which differ from, or inconsistent with, Rule 2a-7. (See Memorandum to SEC Rules Committee No. 15-93 and State Liaison Committee No. 10-93, dated March 1, 1993.) The Institute submitted the attached comment letter on the proposed amendment to the Texas Securities Board. The Institute's letter noted that the federal provisions governing asset-based sales charges and money market funds are extremely technical and were adopted after lengthy rulemaking proceedings and thus the slightest difference in wording or nuance may have severe unintended consequences. Moreover, since the purpose of the conditions set forth in 123.3 relate to whether or not a money market fund qualifies for the reduced registration fee and are not intended to impose merit standards on money market funds, the conditions outlined in the Texas provision should be identical to that of the NASD and SEC provisions in order to avoid any unnecessary conflict or confusion. The Institute therefore recommended that the portions of the proposed amendment to 123.3 which differ from, or are inconsistent with, the NASD provision or Rule 2a-7 be deleted. In the alternative, such should be amended in a manner consistent with the federal provisions. The Institute's letter then goes on to specifically discuss how the proposed Texas provisions conflict with the NASD rules governing asset based sales charges, the provisions in Rule 2a-7 relating to maturity and repurchase agreements and Section 12(d)(1) of the 1940 Act. It is our understanding that the Texas State Securities Board will consider the proposed amendment to this section at the next meeting of the State Securities Board which is scheduled for April 16, 1993. It is possible that a meeting between the staff and the Institute may be held prior to this meeting to resolve the issues raised in the Institute's letter. We will keep you advised of developments.

Patricia Louie Associate Counsel Attachment

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