

MEMO# 13394

April 11, 2001

INSTITUTE'S RESPONSE TO BASEL COMMITTEE PROPOSALS

[13394] April 11, 2001 TO: INTERNATIONAL COMMITTEE No. 28-01 ADDITIONAL DISTRIBUTION LIST RE: INSTITUTE'S RESPONSE TO BASEL COMMITTEE PROPOSALS The Basel Committee on Banking Supervision, a committee of banking supervisory authorities from 12 member countries, has undertaken a second round of consultations on a revised capital adequacy framework for bank holding companies.¹ The proposals made in the Basel Committee's Consultation Document could have implications for the asset management industry. The Committee's Consultation Document proposes to impose capital requirements for operational risk and to calculate those requirements based on operational risks of each business line, including asset management.² A copy of the Committee's Supporting Document on Operational Risk is attached. The Institute is concerned that the Basel Committee proposals may have effects on the asset management industry for several reasons. First, the European Commission launched a second round of consultations on the Capital Adequacy Directive for banks and investment firms that would be based upon the work of the Basel Committee.³ Although the current Capital Adequacy Directive does not apply to UCITS, non-UCITS funds, or managers of these funds, the EU Council recently has proposed to impose certain minimum capital requirements of the Capital Adequacy Directive (13 weeks of the preceding year's fixed overhead) on management companies of UCITS funds.⁴ Moreover, managers of pension funds that take advantage of the European passport for investment firms under the Investment Services Directive but do not manage UCITS funds are subject to the Capital Adequacy Directive.⁵ The European Commission is considering the need to revise the current capital requirements in light of the Basel recommendations for new risk-based capital charges for operational risk. 1 The Basel Committee consists of senior representatives of bank supervisory authorities and central banks from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Sweden, Switzerland, the United Kingdom, and the United States. 2 A complete set of the Basel Committee's Consultation Document and Supporting Documents could be found at <http://www.bis.org/publ/bcbsca.htm>. 3 See Memorandum to International Committee No. 12-01 (Feb. 21, 2001). 4 See Memorandum to International Committee No. 19-01 (Mar. 13, 2001). 5 The Capital Adequacy Directive generally applies to investment firms, including managers of pension funds, subject to the requirements of the Investment Services Directive (ISD). 2Second, although the Federal Reserve Board's authority to impose capital requirements on holding companies of banks based on the assets under management of their investment adviser affiliates may be limited by provisions of Gramm-Leach-Bliley, it is unclear how the Federal Reserve Board would impose capital requirements in accordance with the new Accord. Finally, the Institute is concerned that the Basel capital standards, which are set by banking regulators taking operational risks of asset management affiliates into consideration, may have the unintended consequence of setting a standard for the

entire asset management industry. Accordingly, the Institute is considering ways in which to respond to the Basel Committee proposals and is seeking input from members. One option would be to submit a comment letter to the Basel Committee, and we have drafted a comment letter, a copy of which is attached, for discussion purposes. We are scheduling a conference call for Thursday, April 26 at 3:00 p.m. EDT to discuss the proposals of the Basel Committee and an appropriate response from the Institute. If you plan to participate in the conference call, please complete the attached sign-up form and fax it to Laura Whitehead at (202) 325-5841 by COB Wednesday, April 25, 2001. If you have any questions about the conference call or the Basel Committee proposals, please contact me at (202) 326-5810 or at jchoi@ici.org. Jennifer S. Choi Assistant Counsel Attachments Attachment no. 1 (in .pdf format)

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