

DIVISION OF
INVESTMENT MANAGEMENT

January 14, 2002

Public Avail. Date: 1/14/02 0114200203

Craig S Tyle, Esq.
General Counsel
Investment Company Institute
1401 H Street, NW
Washington, DC 20005-2148

Act Section Rule
1940C 35(d) 35d-1
1940C Form N-1A —

Re: Supplement to Frequently Asked Questions About Mutual Fund After-Tax
Return Requirements

Dear Mr. Tyle:

For your information, we are enclosing a new Question 20, which we are adding to the Frequently Asked Questions About Mutual Fund After-Tax Return Requirements ("FAQs") that we issued on November 5, 2001. Question 20, along with the other FAQs, will be available on the Commission's website (<http://www.sec.gov>).

The FAQs represent the informal views of the Division of Investment Management and do not necessarily reflect the views of the Commission. Please call me at (202) 942-0630 or Paul Cellupica at (202) 942-0554 if you have any additional questions.

Sincerely,



Susan Nash
Associate Director

Enclosure

Public Reference Copy

PERFORMANCE OF PREDECESSOR UNREGISTERED ACCOUNTS

Question 20

- Q. The Division has stated that mutual funds may include in their prospectuses standardized before-tax total returns that include the performance of predecessor unregistered accounts under certain circumstances. *MassMutual Institutional Funds* (pub. avail. Sept. 28, 1995) ("*MassMutual*")¹ We have been advised that, in many cases, such a fund is unable to compute standardized after-tax returns for the pre-registration period because of different tax treatment for those years (e.g., the absence of any requirement to distribute income to investors by December 31 of each year). How should such a fund comply with the after-tax return disclosure requirements in the risk/return summary of its prospectus?
- A. If such a fund is unable to compute standardized after-tax returns for periods prior to registration because of different tax treatment for those years, the fund may include in the risk/return summary standardized after-tax returns for the post-registration period only, provided that the fund also includes standardized before-tax returns for the post-registration period. This will permit comparisons between after-tax returns and before-tax returns for the same periods. The fund also may continue to include in the risk/return summary of its prospectus before-tax returns from the date of inception of the predecessor unregistered account.

For example, assume that a fund has six years of performance as a registered entity and three years of performance as an unregistered entity and is unable to compute standardized after-tax returns for the three years prior to registration because of different tax treatment for those years. The fund may include in the risk/return summary standardized after-tax returns for one year, five years, and six years (the post-registration period), provided that the fund also includes standardized before-tax returns for those periods. In addition, the fund may include standardized before-tax returns for nine years (from the date of inception of the predecessor unregistered account) if its circumstances entitle it to rely on *MassMutual*

¹ Under *MassMutual*, a fund may include in its standardized performance the performance of an unregistered predecessor investment account where, among other things, (1) the fund was managed in a manner that is in all material respects equivalent to the management of the unregistered predecessor account, and (2) the unregistered predecessor account was created for purposes entirely unrelated to the establishment of a performance record.