

MEMO# 22124

January 15, 2008

Draft Comment Letter - European Commission's Call for Evidence on "Substitute" Retail Investment Products

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TO: INTERNATIONAL COMMITTEE No. 2-08
SEC RULES COMMITTEE No. 4-08 RE: DRAFT COMMENT LETTER - EUROPEAN
COMMISSION'S CALL FOR EVIDENCE ON "SUBSTITUTE" RETAIL INVESTMENT PRODUCTS

Last October, the European Commission published a call for evidence regarding the regulation of "substitute" retail investment products that offer risk/return performance comparable to retail investment funds but are sold in a variety of forms that are subject to different levels of product and fee disclosure and different selling rules. [\[1\]](#) The ICI has prepared the attached draft comment letter, which is briefly summarized below.

We have scheduled a conference call to discuss the draft comment letter on Thursday, January 17, 2008 at 12:00 noon Eastern time. The dial-in numbers are 800-857-5485 in the United States and +1 210-234-0024 from outside the United States. The passcode is 65241. Please send an email to Ruth Tadesse at rtadesse@ici.org to let us know if you plan to participate on the call. If you have comments, but are unable to join the call, please provide your comments to Susan Olson at solson@ici.org or 202-326-5813 before the time of the call.

The draft letter strongly supports the Commission's efforts to examine the regulation of retail investment products in Europe. The letter notes that retail investors in both Europe and the United States are now confronted with an expanding array of increasingly complex

investment options, many of which share some key characteristics. The letter generally agrees that greater product innovation provides benefits for retail investors, but it states that regulatory innovation also must occur, so that regulation does not inadvertently make some products more attractive or easier to sell than others.

The draft letter recommends that the Commission consider four broad principles in evaluating the relevant issues: first, disclosure requirements should be comparable for comparable products; second, if regulators determine that a particular requirement should be imposed upon investment companies, that requirement should be extended to “substitute” investment products; third, if there are intentional differences among investment products, the regulatory requirements to which they are subject should respect those differences and should not be allowed to blur together; and finally, differences in tax treatment should not steer an investor toward a particular investment product. The draft letter illustrates each principle with examples primarily from the U.S. marketplace.

Susan Olson
Senior Counsel - International Affairs

[Attachment](#)

endnotes

[\[1\]](#) European Commission, Call for Evidence: Need for a Coherent Approach to Product Transparency and Distribution Requirements for “Substitute” Retail Investment Products? (Oct. 2007), available at ec.europa.eu/internal_market/finances/docs/cross-sector/call_en.pdf. For a summary of the Call for Evidence, see Institute Memorandum to International Members No. 31-07, International Operations Advisory Committee No. 20-07, and SEC Rules Members No. 143-07 [21912], dated Nov. 2, 2007.