MEMO# 22056

December 18, 2007

Remarks by SEC's Division of Investment Management Director at Securities Law Developments Conference

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 74-07
COMPLIANCE MEMBERS No. 68-07
ETF COMMITTEE No. 1-07
FIXED-INCOME ADVISORY COMMITTEE No. 40-07
INST. MONEY MARKET FUNDS ADVISORY COMMITTEE No. 36-07
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 33-07
SEC RULES MEMBERS No. 152-07
SMALL FUNDS MEMBERS No. 114-07
UNIT INVESTMENT TRUST MEMBERS No. 20-07 RE: REMARKS BY SEC'S DIVISION OF INVESTMENT MANAGEMENT DIRECTOR AT SECURITIES LAW DEVELOPMENTS CONFERENCE

The Director of the SEC's Division of Investment Management, Andrew "Buddy" Donohue, spoke at the Institute's 2007 Securities Law Developments Conference on December 6.* In his speech, Mr. Donohue looked back at the Division's achievements in 2007 and forward to its priorities in 2008. His remarks are summarized below.

Mr. Donohue began by discussing the Commission's mutual fund disclosure reform proposal. Calling it a "win-win for fund investors," he explained that the proposal would rely on a concise, plain English summary to communicate key information to investors, with the full prospectus and statement of additional information available on-line or in paper upon request. Mr. Donohue noted that the proposal would enhance the means of delivering more detailed information to fund investors and others through the use of on-line, interactive hyperlinks.

Next, Mr. Donohue stated that the Commission had launched a voluntary filing program this summer that enables mutual funds to file the risk/return summaries from their current prospectuses in an interactive data format – using a taxonomy developed by the Institute. He applauded those funds that have filed their risk return summaries using the taxonomy and encouraged other funds to follow their example.

Mr. Donohue next reported on efforts to improve the Division of Investment Management's exemptive applications process. For example, he noted that for the SEC's fiscal year ended September 30, 2007, the Division had issued 84 percent more substantive notices than the prior fiscal year. In addition, over this same time period, the median time that applications had been pending dropped from 16 months to 8 months. The number of pending applications also decreased by more than 25 percent. He further noted that the staff has prioritized matters to ensure that applicants receive initial comments within 120 days of the Division's receipt of an application. In a related matter, Mr. Donohue stated that the Commission began posting application notices and orders on its website this year and, to facilitate dissemination of information about those applications to the public, has proposed amendments to the EDGAR rules to enable electronic filing of exemptive applications.

Mr. Donohue next discussed recent market events and how these events have affected the fund industry. He noted that the recent market uncertainty has made it challenging for funds to meet their obligations to provide liquidity – in the form of daily redemptions – and reliable valuation and prices – as reflected in a fund's daily NAV. He further noted that because "funds may be providing a degree of liquidity and pricing accuracy that may not be available elsewhere in the market" during this challenging environment, it is essential that funds always act in the best interests of fund investors.

Looking forward to 2008, Mr. Donohue highlighted two priorities for the Division, Rule 12b-1 and books and records reform. He first laid out a number of "significant concerns" related to Rule 12b?1 and the fund distribution system, including investor confusion regarding the purpose of 12b-1 fees, treatment of fund investors in various retail share classes, and outdated guidance concerning the board's responsibilities under Rule 12b-1. Mr. Donohue then explained that despite the need for improvements, "Rule 12b-1 has funded important and meaningful services for fund investors." He further explained that in preparing a recommendation for the Commission, the Division "does not want to dismantle the good with the bad, but [is] committed to addressing important investor protection issues."

Finally, Mr. Donohue acknowledged that there is a "tremendous" need to modernize investment company and investment adviser recordkeeping requirements, many of which originated in the 1960s. He noted that during 2007, his staff visited advisory firms to obtain a better sense of how they maintain their records and make use of available technologies. During 2008, he explained, the SEC staff will be developing recommendations for books and records reform based on the information they learned during the visits.

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