

MEMO# 9991

June 4, 1998

DRAFT RECOMMENDATIONS FOR NEW AND AMENDED RULES CONCERNING AFFILIATED TRANSACTIONS

[9991] June 4, 1998 TO: SEC RULES COMMITTEE No. 53-98 RE: DRAFT RECOMMENDATIONS
FOR NEW AND AMENDED RULES CONCERNING AFFILIATED TRANSACTIONS

At past meetings of the SEC Rules Committee, we have discussed the possibility of preparing a submission to the Securities and Exchange Commission recommending a series of rule changes and/or interpretive relief under Section 17 and various other provisions of the Investment Company Act. The purpose of the submission would be to permit investment companies and certain affiliated (or potentially affiliated) persons to engage in transactions that do not involve self-dealing or overreaching by those persons. The Committee expressed strong support for such an effort. Attached for your review is a draft of the submission. In large part, the draft proposals would codify relief that the Commission or its staff already has granted in the form of exemptive orders or no-action letters. Based on our earlier discussions with the Committee, the proposals cover: (1) mergers of certain affiliated investment companies that cannot rely on Rule 17a-8; (2) transactions involving subadvisory affiliates; (3) in-kind redemptions by affiliated persons; (4) sales of shares of money market funds to affiliated investment companies; (5) joint trading accounts; (6) transactions involving upstream affiliates; and (7) riskless principal transactions. We will discuss the draft submission at the June 17th meeting of the SEC Rules Committee, and we welcome your comments on any and all aspects of it. Among the specific issues we would like to discuss at the meeting are: (1) Are there additional types of transactions that should be included in the submission? For example, should we recommend rule changes to permit inter-fund lending? (2) As noted above, the draft rule proposals generally track existing exemptive orders which, in some cases, impose a series of detailed conditions. In the case of any or all of the proposals, should we instead (or as an alternative) recommend broader relief that would be subject to more general conditions? (For example, with respect to in-kind redemptions to an affiliated person, we could suggest that the board would select the securities to be distributed.) If you will not be attending the June 17th meeting, please provide any comments on the attached draft to me by June 16th. You can reach me by phone at (202) 326-5822, by fax at (202) 326-5827, or by e-mail to frances@ici.org. Frances M. Stadler Deputy Senior Counsel Attachment

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