

**MEMO# 17897**

August 13, 2004

## **SEC STAFF INFORMALLY ADVISES INSTITUTE THAT NO FURTHER CHANGES ARE ANTICIPATED TO THE FUND COMPLIANCE RULE**

[17897] August 13, 2004 TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 56-04 COMPLIANCE ADVISORY COMMITTEE No. 80-04 SEC RULES MEMBERS No. 114-04 SMALL FUNDS MEMBERS No. 87-04 UNIT INVESTMENT TRUST MEMBERS No. 35-04 OPERATIONS MEMBERS No. 30-04 TRANSFER AGENT ADVISORY COMMITTEE No. 69-04 CHIEF COMPLIANCE OFFICER COMMITTEE RE: SEC STAFF INFORMALLY ADVISES INSTITUTE THAT NO FURTHER CHANGES ARE ANTICIPATED TO THE FUND COMPLIANCE RULE As we previously advised you, when the Securities and Exchange Commission adopted the compliance rule under the Investment Company Act, Rule 38a-1, it added and sought comment on various new provisions to the rule to better ensure the chief compliance officer's independence from fund management.<sup>1</sup> These provisions include: • Requiring the fund's board to approve the CCO's compensation; • Providing the board sole power to remove the CCO from her position; • Requiring the CCO to report directly to the board and meet with the independent directors in executive session at least annually; and • Prohibiting persons from coercing or fraudulently influencing her in the course of her responsibilities.<sup>2</sup> The Institute has been advised informally by the staff of the SEC that the Commission does not intend to revise the rule in response to comments received on these new provisions. As such, the above new provisions will remain in the rule without change. Tamara K. Salmon Senior Associate Counsel 1 See Institute Memoranda to Closed-End Investment Company members No. 114-03, SEC Rules Members No. 193-03, Small Funds Members No. 89-03, Unit Investment Trust Members No. 55-03, and Compliance Advisory Committee No. 112-03, dated Dec. 19, 2003. 2 The Institute filed a comment letter objecting to the first two of these conditions. See Institute Memoranda to Closed- End Investment Company members No. 7-04, SEC Rules Members No. 18-04, Small Funds Members No. 12-04, Unit Investment Trust Members No. 7-04, and Compliance Advisory Committee No. 15-04, dated Feb. 5, 2004.