

MEMO# 11721

March 10, 2000

FURTHER AMENDMENTS TO UCITS DIRECTIVE BY EUROPEAN PARLIAMENT

1 See Memorandum to International Committee No. 5-00 (Feb. 7, 2000) [11721] March 10, 2000 TO: INTERNATIONAL COMMITTEE No. 8-00 RE: FURTHER AMENDMENTS TO UCITS DIRECTIVE BY EUROPEAN PARLIAMENT

Attached is a copy of the text of the proposed UCITS Directive adopted by the European Parliament on February 18, 2000. The Parliament's version of the proposal, which will now be forwarded to the Council of Ministers for its consideration, differs slightly from the version recommended by the Committee on Economic and Monetary Affairs of the European Parliament ("Committee").¹ The Parliament's text would continue to allow fund of funds arrangements and permit investments by UCITS in other UCITS and non-UCITS funds subject to certain qualitative and quantitative conditions. The Parliament's text, however, amends one of the conditions for investment. Under both the Parliament and Committee versions relating to fund of funds, the Directive would require that investors in non-UCITS funds be afforded protection equivalent to that provided to investors in UCITS. The Committee text noted in particular that the rules on "borrowing, lending and uncovered sales of transferable securities satisfy the requirements of this Directive," while the Parliament text notes that the rules on "borrowing, lending, uncovered sales of transferable securities and on the role and the liability of the depositary laid down by this Directive are respected" (emphasis added). We currently are consulting with our European counsel on the precise effect of this new text and whether the new language might prevent UCITS from investing in US mutual funds. If you have any thoughts on this change in the text of the proposed Directive, please contact me at (202) 326-5810 or jchoi@ici.org. Jennifer S. Choi
Assistant Counsel Attachment