

MEMO# 19165

September 16, 2005

SEC ISSUES REGULATORY RELIEF RELATED TO HURRICANE KATRINA

©2005 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [19165] September 16, 2005 TO: ACCOUNTING/TREASURERS MEMBERS No. 18-05 COMPLIANCE MEMBERS No. 14-05 INDEPENDENT DIRECTORS COUNCIL No. 3-05 OPERATIONS MEMBERS No. 12-05 PRIMARY CONTACTS - MEMBER COMPLEX No. 36-05 SEC RULES MEMBERS No. 99-05 SMALL FUNDS MEMBERS No. 77-05 TRANSFER AGENT ADVISORY COMMITTEE No. 46-05 UNIT INVESTMENT TRUST MEMBERS No. 19-05 RE: SEC ISSUES REGULATORY RELIEF RELATED TO HURRICANE KATRINA The Securities and Exchange Commission has issued an order providing emergency regulatory relief to investors, companies, and securities firms (including investment companies, investment advisers, and transfer agents) affected by Hurricane Katrina.¹ As summarized below, the order conditionally exempts specified persons from certain requirements of the federal securities laws. RELIEF FOR REGISTERED INVESTMENT COMPANIES REGARDING TRANSMITTAL OF ANNUAL AND SEMI-ANNUAL SHAREHOLDER REPORTS The SEC's order exempts registered investment companies from the requirements of Section 30(e) of the Investment Company Act of 1940 and Rule 30e-1 (Rule 30e-2 for unit investment trusts) thereunder to transmit annual and semi-annual reports to shareholders and unitholders. The order provides this relief for 90 calendar days beginning on August 29, 2005. This relief is subject to the following conditions: a. The shareholder or unitholder's mailing address for transmittal as listed in the records of the registered investment company has a zip code for which the United States Postal Service has suspended mail service, as a result of Hurricane Katrina, of the type or class customarily used by the investment company for transmittal of reports; and 1 The order and a related press release are available from the SEC's website at <http://www.sec.gov/rules/exorders/34-52444.pdf> and <http://www.sec.gov/news/press/2005-132.htm>, respectively. 2 b. The registered investment company or other person promptly transmits the reports (i) if requested by the shareholder or unitholder, or (ii) at the earlier of the end of the 90-day period or the resumption of the applicable mail service. The order notes that registered investment companies experiencing difficulties in complying with their obligations after the 90-day period, or in need of additional information or assistance regarding issues under the Investment Company Act, should contact the SEC's Division of Investment Management, Office of Chief Counsel, at (202) 551-6825 or at imocc@sec.gov. RELIEF RELATING TO FURNISHING PROXY AND INFORMATION STATEMENTS The SEC's order exempts registrants or any other person from the requirements to furnish proxy statements, annual reports and other soliciting materials, as applicable ("Soliciting Materials"), under Rules 14a-3 and 14a-12 under the Securities Exchange Act of 1934, and the requirements to furnish information statements

and annual reports, as applicable ("Information Materials"), under Exchange Act Rules 14c-2 and 14c-3. This relief is subject to the following conditions: a. The registrant's security holder has a mailing address within a zip code where, as a result of Hurricane Katrina, the USPS has suspended mail service of the type or class customarily used by the registrant; b. The registrant or other person making a solicitation has followed normal procedure when furnishing the Soliciting Materials to the security holder in order to ensure that the Soliciting Materials preceded or accompanied the proxy, as required by the rules applicable to the particular form of Soliciting Materials, or, in the case of Information Materials, the registrant has followed normal procedure when furnishing the Information Materials to the security holder in accordance with the rules applicable to Information Materials; and c. If requested by the security holder, the registrant or other person provides the Soliciting Materials or Information Materials by a means reasonably designed to furnish the Soliciting Materials or Information Materials to the security holder. The order notes that any registrant or person unable to meet a deadline or in need of guidance or other assistance should contact the SEC's Division of Corporation Finance at (202) 551-3500 or at cfhotline@sec.gov.

RELIEF FOR TRANSFER AGENTS FROM SECTIONS 17A AND 17(f) OF THE EXCHANGE ACT The SEC's order states that any registered transfer agent located in the Presidential Disaster Areas (as defined in the order) that is unable to comply with the requirements of Section 17A and Section 17(f) of the Exchange Act and the rules thereunder is temporarily exempted from complying with those provisions² for the period from and including August 29, 2005 to October 17, 2005. This relief is subject to the following conditions: a. If the transfer agent maintains books and records at locations inside the Presidential Disaster Areas, it must notify the Commission in writing by October 17, 2005, if it knows or believes that such books and records were lost, destroyed, or materially damaged; and b. If the transfer agent is holding security holder or issuer funds or securities, it must notify the Commission in writing by October 17, 2005, if it knows or believes that such funds or securities were lost, destroyed, stolen, or unaccountable for any reason. The SEC's order further provides that any registered transfer agent that is residing outside the Presidential Disaster Areas and is unable to comply with any provision of Section 17A or any provision of any rule thereunder due to an inability to conduct business with persons (entities or individuals) inside the Presidential Disaster Areas or an inability to remit funds or securities to security holders residing in the Presidential Disaster Areas is temporarily exempted from compliance with those provisions with respect to those specific transactions for the period from and including August 29, 2005, to October 17, 2005. This relief is subject to the following conditions: a. The transfer agent must make and keep a record of the extent of and the reason for noncompliance and retain the records for a period of no less than three years; and b. If the transfer agent has not already done so, it must maintain in a separate bank account held for the exclusive benefit of security holders all security holder funds to be remitted to security holders until such funds are properly remitted to the security holders. The order notes that transfer agents experiencing difficulties in complying with their obligations after October 17, 2005, or in need of additional information, should contact the SEC's Division of Market Regulation, Office of Interpretation and Guidance, at (202) 551-5760 or at marketreg@sec.gov.

OTHER RELIEF The SEC's order provides relief for certain Exchange Act filers and independent certified public accountants. For Exchange Act filers, the order states that a registrant subject to the reporting requirements of Exchange Act Section 13(a) or 15(d), and any person required to make any filings with respect to such a registrant, is exempt from any requirement to file or furnish materials with the Commission under Exchange Act Sections 13(a), 13(d), 13(g), 14(a), 14(c), 15(d) and 16(a), Regulations 13A, 13D, 13G, 14A, 14C and 15D, and Rule 16a-3, as applicable, for the period from and including August 29, 2005 to October 14, 2005. This relief is subject to the following conditions: ² The order provides relief from the

requirements of (1) Section 17A of the Exchange Act and Rules 17Ad-1 through 17Ad-21T thereunder, and (2) Section 17(f) of the Exchange Act and Rules 17f-1 and 17f-2 thereunder. 4 a. The address of the registrant's principal executive offices listed on the cover page of the most recent periodic report filed on Form 10-Q, 10-QSB, 10-K, or 10-KSB is located within one of the Presidential Disaster Areas; b. With respect to persons other than registrants, the address listed on the most recently filed schedule or form that the person had filed is within one of the Presidential Disaster Areas; and c. The registrant or person files with the Commission any report, schedule or form required to be filed during the period from and including August 29, 2005 to October 14, 2005 on or before October 17, 2005. For independent certified public accountants, the SEC's order provides limited relief to permit CPAs to engage in certain services prohibited under its independence rules, including maintaining or preparing the audit client's accounting records and preparing or originating source data underlying the audit client's financial statements. This relief is intended to allow CPAs to reconstruct lost or destroyed accounting records of audit clients located within one of the Presidential Disaster Areas. Barry E. Simmons Associate Counsel

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