

MEMO# 19132

September 1, 2005

DRAFT COMMENT LETTER ON FASB UNCERTAIN TAX POSITIONS PROPOSAL; CONFERENCE CALL WEDNESDAY, SEPTEMBER 7 AT 2:00 P.M.

©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. [19132] September 1, 2005 TO: ACCOUNTING/TREASURERS COMMITTEE No. 14-05 TAX COMMITTEE No. 29-05 RE: DRAFT COMMENT LETTER ON FASB UNCERTAIN TAX POSITIONS PROPOSAL; CONFERENCE CALL WEDNESDAY, SEPTEMBER 7 AT 2:00 P.M. As we previously informed you, the Financial Accounting Standards Board published a proposed interpretation of FASB No. 109, Accounting for Income Taxes.¹ The proposed interpretation would require issuers to recognize in their financial statements the impact of a tax position if that tax position is probable of being sustained based solely on the technical merits of the position. Individual tax positions that fail to meet the probable recognition threshold would result in recognition of a liability for income taxes payable. The proposed interpretation applies to all entities that prepare financial statements in accordance with generally accepted accounting principles, including investment companies. The Institute has prepared a draft comment letter on the proposed interpretation. The draft comment letter indicates that the proposed probable standard may cause a fund to recognize a liability for income taxes, even though it is unlikely the fund will be required to pay income taxes. Recognition of a liability will cause the fund's financial statements to misrepresent its financial position and artificially depress the fund's net asset value, to the detriment of the fund's shareholders. The Institute's draft letter recommends that SEC registered investment companies initially recognize the financial statement effects of an uncertain tax position when it is more likely than not that the position will be sustained. We believe the more likely than not standard could more easily be satisfied by funds than the proposed probable standard. Do members support the recommended more likely than not standard? Alternatively, should we recommend a lesser standard (e.g., substantial authority)? ¹ See Memorandum to Accounting/Treasurers Committee No. 11-05 and Tax Committee No. 26-05, dated August 5, 2005 [19070]. ² Comments on the proposed interpretation are due by Monday, September 12, 2005. We have scheduled a conference call on Wednesday, September 7th at 2:00 p.m. to discuss the Institute's draft letter. The dial-in number for the call is 800-619-7489 and the passcode is 61217. If you would like to participate on the call, please notify us by sending an e-mail to ewynn@ici.org. Please feel free, in advance of the call, to provide any comments you may have on the draft letter to Keith Lawson (lawson@ici.org or 202-326-5832) or Greg Smith (smith@ici.org or 202-326-5851). Gregory M. Smith Director -

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