

MEMO# 13723

July 16, 2001

GERMANY ANNOUNCES NEW TAX RECLAIM PROCEDURES FOR REGULATED INVESTMENT COMPANIES

[13723] July 16, 2001 TO: ACCOUNTING/TREASURERS MEMBERS No. 17-01 BANK AND TRUST ADVISORY COMMITTEE No. 12-01 CLOSED-END INVESTMENT COMPANY MEMBERS No. 24-01 INTERNATIONAL MEMBERS No. 11-01 SECURITIES OPERATIONS SUBCOMMITTEE No. 9-01 TAX MEMBERS No. 19-01 TRANSFER AGENT ADVISORY COMMITTEE No. 51-01 UNIT INVESTMENT TRUST MEMBERS No. 28-01 RE: GERMANY ANNOUNCES NEW TAX RECLAIM PROCEDURES FOR REGULATED INVESTMENT COMPANIES We are pleased to inform you that the German Federal Finance Office (FFO) has announced new procedures that will permit regulated investment companies (RICs) to receive full (100%) refunds of all tax reclaim¹ amounts withheld under the US-Germany Income Tax Treaty (Treaty) during calendar years 2000 and 2001 and prospectively. The attached procedures reflect the position taken by the German Ministry of Finance that RICs are entitled to benefits under the Treaty as beneficial owners of their income, as urged by the Institute.² Pursuant to the new procedures, RICs certifying that more than 50 percent of their shareholders are US residents on the attached FFO certification form³ will receive a full (100%) ¹ For this purpose, a tax reclaim represents a receivable owed to a RIC by the German tax authorities in an amount equal to the difference between the German withholding tax rate on dividends (i.e., 25 percent plus 5.5 percent solidarity tax) and the lower withholding tax rate (i.e., 10 percent) to which RICs are entitled under the US-Germany Income Tax Treaty. ² See Institute Memorandum to Accounting/Treasurers Members No. 13-01, Bank and Trust Advisory Committee No. 6-01, Closed-End Investment Company Members No. 19-01, International Members No. 8-01, Securities Operations Subcommittee No. 6-01, Tax Members No. 17-01, Transfer Agent Advisory Committee No. 43-01 and Unit Investment Trust Members No. 22-01, dated June 7, 2001. ³ The attached FFO certification form reflects the latest English translation of the form by the FFO. It does not, however, reflect any changes to the original German version of the form released by the FFO in August 2000. Also note that the attached certification form is designed for use by various types of investment vehicles, including RICs which are US corporations for US federal tax purposes. ² refund of all tax reclaim amounts from the German tax authorities.⁴ Once a RIC provides a US shareholder certification to the FFO, all subsequent tax reclaims will be processed on the basis of that certification.⁵ Where a RIC had previously filed tax reclaims with the FFO for calendar years 2000 or 2001 and certified a percentage of US shareholders in excess of 50 percent, but less than 100 percent, the RIC automatically should receive a refund of any withheld amounts from the FFO in the next few months. The FFO may request updated US shareholder certifications from RICs on a case-by-case basis. Deanna J. Flores Associate Counsel Attachment Note: Not all recipients receive the attachment. To obtain a copy of the

attachment to which this memo refers, please call the ICI Library at (202) 326-8304 and request the attachment for memo 13723. ICI Members may retrieve this memo and its attachment from ICINet (<http://members.ici.org>). Attachment (in .pdf format) 4 The 50 percent threshold reflects the so-called “limitation on benefits” requirement for all claimants under Article 28 of the Treaty. 5 All RICs must have a US shareholder certification on file with the FFO as a precondition to obtaining payment of any tax reclaim amounts. To ensure that this requirement is satisfied, global custodians may request that their RIC clients provide another FFO certification form as part of their administrative procedures.

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