

MEMO# 19365

November 14, 2005

INSTITUTE FILES AMICUS BRIEF IN U.S. SUPREME COURT CASE CONCERNING FEDERAL PREEMPTION OF STATE CLASS ACTION LAWSUITS

©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. [19365] November 14, 2005 TO: BOARD OF GOVERNORS No. 55-05 PRIMARY CONTACTS - MEMBER COMPLEX No. 45-05 SEC RULES MEMBERS No. 119-05 SMALL FUNDS MEMBERS No. 93-05 RE: INSTITUTE FILES AMICUS BRIEF IN U.S. SUPREME COURT CASE CONCERNING FEDERAL PREEMPTION OF STATE CLASS ACTION LAWSUITS The Institute has filed the attached amicus brief in a U.S. Supreme Court case that could impact the continued viability of class actions – including those filed against mutual funds – that allege fraud under state securities law. The Institute’s brief was filed to impress upon the Court the harm to mutual funds and their investors that could result if such class actions are permitted notwithstanding the provisions of the Securities Litigation Uniform Standards Act (SLUSA). SLUSA was enacted by Congress in 1998 to establish uniform national standards for securities class actions and curb vexatious litigation. The statute preempts state class actions alleging fraud “in connection with the purchase or sale” of certain securities (including mutual fund shares), and requires that such suits proceed only in the federal courts. Since SLUSA was enacted, there have been a number of cases raising the issue of whether the law applies to class actions brought by persons holding a particular security, or only to those persons who purchased or sold securities. To date, courts have been split on how to interpret the statutory language. The Institute’s brief argues that SLUSA preempts “holder” class actions alleging fraud under state law. Oral arguments in this case are scheduled for January 18, 2006. Paul Schott Stevens President Attachment (in .pdf format) Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 19365, or call the ICI Library at (202) 326-8304 and request the attachment for memo 19365.