

MEMO# 19093

August 11, 2005

COURT OF APPEALS GRANTS REQUEST FOR STAY OF FUND GOVERNANCE STANDARDS

©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. [19093] August 11, 2005 TO: BOARD OF GOVERNORS No. 36-05 CLOSED-END INVESTMENT COMPANY MEMBERS No. 44-05 SEC RULES MEMBERS No. 92-05 SMALL FUNDS MEMBERS No. 70-05 RE: COURT OF APPEALS GRANTS REQUEST FOR STAY OF FUND GOVERNANCE STANDARDS Yesterday, the U.S. Court of Appeals for the District of Columbia Circuit issued an order unanimously granting a U.S. Chamber of Commerce emergency motion requesting that the compliance date of the contested fund governance standards be stayed pending judicial review. The contested standards, which would require that 75 percent of a fund board and the board chairman be independent, had been scheduled to take effect in January 2006. The Chamber of Commerce challenged these standards for a second time after the Commission, responding to a court remand, reaffirmed the rule by a 3 to 2 vote. The court also directed the parties to brief the issue of whether the Commission had the authority to act on the court's remand prior to the issuance of the court's mandate sending the case back to the SEC. The briefing schedule set by the court calls for the final briefs to be submitted November 14 and oral arguments to be scheduled on the first available date following the completion of briefing. A copy of the court's order is attached. Jane G. Heinrichs Assistant Counsel 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 19093, or call the ICI Library at (202) 326-8304 and request the attachment for memo 19093.