

MEMO# 15399

November 27, 2002

INSTITUTE DRAFT LETTER ON AMENDMENTS PROPOSED BY CFTC TO RULE 4.5 TO FACILITATE TRADING OF STOCK FUTURES BY INVESTMENT COMPANIES

[15399] November 27, 2002 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 48-02 COMPLIANCE ADVISORY COMMITTEE No. 107-02 SEC RULES COMMITTEE No. 97-02 RE: INSTITUTE DRAFT LETTER ON AMENDMENTS PROPOSED BY CFTC TO RULE 4.5 TO FACILITATE TRADING OF STOCK FUTURES BY INVESTMENT COMPANIES As we previously advised you, in October, the Commodity Futures Trading Commission proposed for comment revisions to Rule 4.5 under the Commodity Exchange Act.* These revisions are intended to expand the current exclusions from the definition of “commodity pool operator” for registered investment companies and other regulated entities to accommodate the trading of security futures and stock index futures. In response to the CFTC’s request for comments, the Institute has prepared the attached letter supporting the adoption of the proposed revisions. The Institute’s letter commends the CFTC for recognizing the need to update Rule 4.5 in this manner. It notes that the revisions will provide registered investment companies increased flexibility to invest in security futures and stock index futures where such investments are consistent with their investment objectives and policies, which should benefit their shareholders. It further notes that the proposal, which would continue to relieve registered investment companies from regulation by the CFTC, is consistent with the regulatory balance between the CFTC and the SEC that was struck by Congress in the Commodity Futures Modernization Act. Comments on the proposed amendments are due to the CFTC by Thursday, December 12th. Persons with comments on the Institute’s draft letter should provide them to the undersigned no later than Friday, December 6th. Comments may be provided by phone (202-326-5825) or e-mail (tamara@ici.org). Tamara K. Salmon Senior Associate Counsel Attachment (in .pdf format) * See Memorandum No. 15304 to Closed-End Investment Company Committee No. 42-02, Compliance Advisory Committee No. 95-02, and SEC Rules Committee No. 87-02, dated October 28, 2002.