

MEMO# 16335

July 22, 2003

DRAFT COMMENT LETTER ON IOSCO'S REPORT RECOMMENDING BEST PRACTICE STANDARDS FOR ADVERTISING OF COLLECTIVE INVESTMENT SCHEME PERFORMANCE; VIEWS REQUESTED BY AUGUST 6TH

ACTION REQUESTED [16335] July 22, 2003 TO: ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 8-03 INTERNATIONAL COMMITTEE No. 46-03 RE: DRAFT COMMENT LETTER ON IOSCO'S REPORT RECOMMENDING BEST PRACTICE STANDARDS FOR ADVERTISING OF COLLECTIVE INVESTMENT SCHEME PERFORMANCE; VIEWS REQUESTED BY AUGUST 6TH The International Organization of Securities Commissions (IOSCO) has requested comment on a report presenting suggested best practice standards for the presentation of Collective Investment Scheme (CIS) performance in advertisements.¹ The suggested best practice standards are based on a report prepared by the Standing Committee on Investment Management. As we previously advised you, that report reviewed the standards currently used by member jurisdictions with respect to performance presentations by CIS.² The Institute has prepared a draft comment letter on the suggested best practice standards, a copy of which is attached. Comments on the Report are due to IOSCO by August 15th. Please provide any comments you have on the Institute's draft letter to me at 202/218-3563 (phone), 202/326-5827 (fax), or ddonohue@ici.org, no later than Wednesday, August 6th. The Institute's draft letter, in general, strongly supports the suggested best practice standards and states that IOSCO should continue in its efforts to encourage jurisdictions to consider the comprehensiveness and effectiveness of their performance presentation standards in order to enhance investor protection. In summary, the Institute's draft letter states as follows:

- The draft letter supports the suggested best practice standards regarding standardized formulas, disclosure of fees and expenses, standardized time periods, currentness of performance information and use of disclaimers.
- The draft letter requests IOSCO to encourage all member jurisdictions to adopt mandatory regulations to govern performance advertising. Mandatory rules ensure that

1 The Report is available at <http://www.iosco.org/library/index.cfm?whereami=pubdocs&year=2003>. 2 See Memorandum No. 14887, dated July 17, 2002 (summarizing the report); See also Memorandum No. 15210, dated September 27, 2002 (summarizing the Institute's comments on the report). 2 all advertisements containing performance are subject to the same requirements with respect to computation, currentness, and disclosure.

- The draft letter opposes the suggested best practice standard relating to the use of performance

benchmarks. Requiring funds to compare their performance to an index is inappropriate and potentially misleading. • The draft letter states the Institute’s disagreement with the suggestion in the Report that a CIS should consider including additional data, such as standard deviation data in performance advertisements to demonstrate the volatility of its performance. Funds should not be required, or encouraged, to report a single, standardized, numerical measurement of risk in their disclosure documents. • The draft letter urges IOSCO to address the use of performance rankings in its best practice standards. Making rankings subject to best practice standards should help to ensure that they are presented in a complete, consistent, and non-misleading manner. • The draft letter requests IOSCO to omit the best practice standard that states that CIS should provide “additional relevant information” relating to performance upon the request of any investor. The potential costs associated with such an open-ended requirement outweigh any possible benefits. Dorothy M. Donohue Associate Counsel Attachment (in .pdf format)

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