

**MEMO# 20357**

September 7, 2006

## **ICI Comment Letter on SEC Soft Dollar Interpretive Guidance Relating to Commission-Sharing Arrangements**

©2006 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. [20357] September 7, 2006 TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 39-06 INVESTMENT ADVISER MEMBERS No. 25-06 SEC RULES MEMBERS No. 78-06 SMALL FUNDS MEMBERS No. 63-06 EQUITY MARKETS ADVISORY COMMITTEE No. 19-06 RE: ICI COMMENT LETTER ON SEC SOFT DOLLAR INTERPRETIVE GUIDANCE RELATING TO COMMISSION-SHARING ARRANGEMENTS As previously indicated, the Securities and Exchange Commission recently published final interpretive guidance on the scope of brokerage and research services and client commission arrangements under Section 28(e) of the Securities Exchange Act of 1934.<sup>1</sup> The SEC's interpretive release requested further comments with respect to commission-sharing arrangements under Section 28(e). The Institute has filed a comment letter, which is attached and briefly summarized below. The letter praises the SEC's final soft dollar interpretive guidance. The letter states that the guidance properly reflects comments submitted by the Institute and others and strikes an appropriate balance between the regulation of soft dollar practices and the facilitation of soft dollar arrangements in the interests of investors. With respect to commission-sharing arrangements, the letter strongly supports the flexibility that the final guidance provides. It commends the SEC for recognizing the variety of commission-sharing arrangements and recommends that any further guidance reflect the need for flexibility. It also commends the SEC for clarifying that the final guidance does not place any affirmative obligations on money managers with respect to the responsibility of introducing brokers involved in commission sharing arrangements. The letter urges the SEC to continue to work with the broker-dealer community to ensure that any responsibilities imposed on brokers under the guidance with respect to these types of arrangements are appropriate and workable. <sup>1</sup> See Memorandum to Closed-End Investment Company Members No. 33-06, Equity Markets Advisory Committee No. 14-06, Investment Adviser Members No. 21-06, SEC Rules Members No. 65-06 and Small Funds Members No. 53-06 [20215], dated July 28, 2006. <sup>2</sup> The letter also reiterates the Institute's recommendation that the SEC level the playing field by prohibiting the use of client commissions outside the safe harbor by all investment advisers, regardless of the type of client account involved. The letter states that this approach will ensure that all advisers treat investors equitably in connection with the adviser's use of brokerage, and that broker-dealers do not have an incentive to favor advisers who are permitted to use client commissions outside the safe harbor. Frances M. Stadler Deputy Senior Counsel Attachment (in .pdf format) Note: Not all recipients receive the attachment. To obtain a

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