

**MEMO# 11760**

March 24, 2000

# **ICI MEMORANDUM TO SWITZERLAND REGARDING ELIGIBILITY OF U.S. FUNDS FOR TREATY BENEFITS**

1 See Institute Memorandum to Bank and Trust Advisory Committee No. 28-99, International Committee No. 50-99, Tax Committee No. 34-99, Transfer Agent Advisory Committee No. 75-99, and Securities Operations Subcommittee, dated November 29, 1999. [11760] March 24, 2000 TO: BANK AND TRUST ADVISORY COMMITTEE No. 9-00 INTERNATIONAL COMMITTEE No. 11-00 TAX COMMITTEE No. 13-00 TRANSFER AGENT ADVISORY COMMITTEE No. 16-00 SECURITIES OPERATIONS SUBCOMMITTEE RE: ICI MEMORANDUM TO SWITZERLAND REGARDING ELIGIBILITY OF U.S. FUNDS FOR TREATY BENEFITS

The Swiss Federal Tax Administration (FTA) reportedly has suspended payment of tax reclaims submitted by and on behalf of U.S. funds pending a re-examination of their entitlement to benefits under the U.S.-Switzerland treaty that entered into force on December 19, 1997 (Treaty).<sup>1</sup> The Institute has submitted the attached, detailed memorandum to the FTA regarding the application of the Treaty to U.S. funds treated as regulated investment companies (RICs). First, in response to specific questions asked by the FTA, the memorandum describes the structure and Federal regulation of RICs and the Federal taxation of RICs and their shareholders. Second, the memorandum demonstrates that RICs are entitled to benefits under the Treaty because they are “U.S. residents” and satisfy the so-called “limitation on benefits” requirements. Third, the memorandum recommends that procedures to process tax refund claims of RICs and establish eligibility of RICs to benefits under the Treaty be administered at the RIC level. To do otherwise, as explained in the memorandum, would be administratively infeasible and result in a de facto denial of benefits in circumstances where the Treaty intends that relief be granted. To the extent that it would be helpful, the Institute has offered to meet with the FTA to discuss the attached memorandum and, more generally, the entitlement of RICs to benefits under the Treaty. Deanna J. Flores Assistant Counsel Attachment