

**MEMO# 15624**

February 6, 2003

# **DRAFT ICI COMMENT LETTER ON SEC PROPOSAL REGARDING LISTED COMPANY AUDIT COMMITTEE STANDARDS**

[15624] February 6, 2003 TO: ACCOUNTING/TREASURERS COMMITTEE No. 7-03 CLOSED-END INVESTMENT COMPANY COMMITTEE No. 9-03 SEC RULES COMMITTEE No. 13-03 RE: DRAFT ICI COMMENT LETTER ON SEC PROPOSAL REGARDING LISTED COMPANY AUDIT COMMITTEE STANDARDS As previously indicated, the Securities and Exchange Commission has proposed new Rule 10A-3 under the Securities Exchange Act of 1934.<sup>1</sup> As proposed, Rule 10A-3 would direct the national securities exchanges to prohibit the listing of any security of an issuer that is not in compliance with the specified audit committee requirements. A draft of the Institute's comment letter on the Commission's proposal is attached for your review and is briefly summarized below. Comments on the proposed rule must be filed with the SEC by February 16, 2003. Please provide any comments you may have on the Institute's draft letter by Wednesday, February 12 to Greg Smith by phone (202/326-5851), fax (202/326-8314) or email (smith@ici.org). Summary of the Institute's Comments • Audit Committee Member Independence – the draft letter supports the use of the Investment Company Act's definition of interested person to determine whether a member of an investment company's audit committee is independent. The draft letter requests that the Commission add an exemption to the proposed rule that would permit a director on an investment company's audit committee to: (i) provide legal services to an investment company's independent directors; and/or (ii) be a partner of a law firm that provides legal services to an investment company's independent directors. • Responsibilities Relating to Registered Public Accounting Firms – the draft letter supports the proposed rule, which exempts investment company audit committees from selecting the independent accountant. The draft letter recommends that the Commission clarify that 1 See Memorandum to Accounting/Treasurers Committee No. 3-03, Closed-End Investment Company Committee No. 5-03 and SEC Rules Committee No. 6-03, dated January 14, 2003. 2 "selection" includes both appointment and retention. • Procedures for Handling Complaints – the draft letter supports the proposed rule, including the Commission's decision to refrain from prescribing specific procedures. • Engagement and Funding of Advisers to the Audit Committee – the draft letter supports the proposed rule. Gregory M. Smith Director – Operations/ Compliance & Fund Accounting Attachment (in .pdf format)

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.