

MEMO# 15576

January 22, 2003

DRAFT INSTITUTE COMMENT LETTER TO EUROPEAN UNION ON REVISIONS TO THE CAPITAL ADEQUACY DIRECTIVE

URGENT/ACTION REQUESTED [15576] January 22, 2003 TO: INTERNATIONAL COMMITTEE No. 5-03 RE: DRAFT INSTITUTE COMMENT LETTER TO EUROPEAN UNION ON REVISIONS TO THE CAPITAL ADEQUACY DIRECTIVE Attached for your review is a copy of the Institute's draft comment letter on the EU Commission's Working Document on Capital Requirements for Credit Institutions and Investment Firms.¹ The Commission's Working Document is intended to provide the basis for a dialogue on how best to reflect the new Basel Accord, which is scheduled to be adopted in the fall of 2003, into a revised EU capital adequacy framework. The Commission is expected to issue the final consultation paper on a proposal to revise the Capital Adequacy Directive in the summer of 2003. The Institute's letter reiterates our position that it would be unwise to introduce into the Capital Adequacy Directive bank-style capital requirements for asset management firms. The Institute urges the Commission to remain cognizant of the differences between banking and asset management as it proceeds with its ongoing work for the application of the new framework on operational risk for investment firms. The letter also states that, if the Commission, despite the Institute's arguments, determines to impose bank-style capital requirements on asset management firms, the Commission should (1) apply a lower calibration for imposing capital charges for operational risk on asset management than for banks and (2) permit firms to offset capital with insurance. To assist the Commission in recognizing insurance, the Institute will be forwarding (in the next few weeks) data on the US industry's experience in using insurance to cover certain operational risks. The letter also requests clarification that managers of both UCITS and other assets will not be required to include the management of UCITS funds within the business lines for purposes of calculating capital requirements under the Standardized Approach. Finally, the letter recommends that the Commission exclude UCITS fund activities for purposes of calculating capital for banks and bank holding companies whose affiliates also manage UCITS funds. ¹ The Commission's Working Document is available at, http://europa.eu.int/comm/internal_market/en/finances/capitaladequacy/index.htm. ² Comments on the Working Document are due by January 31, 2003. If you have any comments on the draft letter, please provide them to me by Wednesday, January 29, 2003 at (202) 326-5810 or at jchoi@ici.org. Jennifer S. Choi Associate Counsel 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.