

MEMO# 16388

July 31, 2003

GERMANY INTRODUCES DRAFT OF NEW FUND LAW AND FUND TAX LAW

[16388] July 31, 2003 TO: INTERNATIONAL COMMITTEE No. 51-03 TAX COMMITTEE No. 47-03 RE: GERMANY INTRODUCES DRAFT OF NEW FUND LAW AND FUND TAX LAW Attached is a memorandum from German counsel on the draft Investment Modernization Act (Draft Act), which was published by the German Ministry of Finance earlier this month. The Draft Act will, among other things, transpose the new UCITS Directive into national law and modernize and harmonize Germany's investment fund and tax laws. One of the objectives of the Draft Act is to make Germany more attractive to the investment fund industry. As described in more detail in the memorandum, the Draft Act introduces the concept of an investment stock company with variable capital as a new form for investment funds, which would be similar to the Luxembourg SICAVs (corporate-styled funds). The Draft Act also will abolish the discriminatory treatment of foreign funds with respect to dividends.¹ The Draft Act, however, will restrict the registration of non-EU funds for sale in Germany to funds domiciled in non-EU countries that have a reciprocity agreement with Germany for the public sale of foreign funds. This provision effectively would prohibit US funds from registering for sale in Germany. The Draft Act would grandfather foreign funds that are already registered for public sale in Germany. We understand that the Draft Act will be referred to the Federal Cabinet on August 4, 2003, and final adoption of the Act is planned for the end of November with effectiveness as of January 2004. Jennifer S. Choi Associate Counsel Attachment (in .pdf format) 1 See Memorandum to International Members No. 14-03 and Tax Members No. 25-03 (15904) (Apr. 16, 2003).

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