

MEMO# 15481

December 20, 2002

DRAFT INSTITUTE LETTER ON SEC PROPOSAL ON AUDITOR RECORDS

[15481] December 20, 2002 TO: ACCOUNTING/TREASURERS COMMITTEE No. 56-02 CLOSED-END INVESTMENT COMPANY COMMITTEE No. 57-02 INVESTMENT ADVISERS COMMITTEE No. 32-02 SEC RULES COMMITTEE No. 108-02 SMALL FUNDS COMMITTEE No. 22-02 UNIT INVESTMENT TRUST COMMITTEE No. 33-02 RE: DRAFT INSTITUTE LETTER ON SEC PROPOSAL ON AUDITOR RECORDS As we previously informed you,¹ the Securities and Exchange Commission has issued a release requesting comments on a proposed rule implementing the requirements in Section 802 of the Sarbanes-Oxley Act. While the proposed rule relates primarily to auditor record retention, the Commission requested comment on its application to investment companies and investment advisers. The Institute's draft comment letter on the proposal is attached and summarized below. Comments on the proposed rule must be received by the SEC no later than December 27, 2002. If you have any comments on the Institute's draft letter, please provide them to the undersigned via e-mail (smith@ici.org) by December 26. The proposing release requests comment on whether the Commission should exercise its authority under Section 32(c) of the Investment Company Act to require independent accountants' records related to audits of investment companies be made available for inspection by Commission staff. The Institute's draft letter supports this proposal, noting that such access may enhance the efficiency and effectiveness of the Commission's investment company inspection program. The Commission requests comment on whether issuers should be subject to record retention requirements, including retaining records that the independent accountant reviewed but did not include in its workpapers. The Institute's draft letter notes that investment company issuers are already subject to extensive record keeping and record retention requirements. Moreover, to the extent the Commission requires independent accountants to 1 Memorandum to Accounting/Treasurers Committee No. 52-02, Closed-End Investment Company Committee No. 47-02, Investment Advisers Committee No. 28-02, SEC Rules Committee No. 96-02, Small Funds Committee No. 20- 02, Unit Investment Trust Committee No. 26-02, dated November 26, 2002. 2 make their records available for inspection, any such issuer record retention requirement would be duplicative and unnecessary. Finally, the Institute's comment letter recommends that the proposal not be applied to audits of investment advisers. The Institute's letter notes that an investment adviser's balance sheet is not particularly meaningful to fund investors and that the Commission omitted the requirement that advisers to mutual funds provide a certified balance sheet in connection with shareholder approval of an investment advisory contract. Gregory M. Smith Director - Operations/Compliance & Fund Accounting Attachment (in .pdf format)

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