

MEMO# 19653

January 27, 2006

CESR PUBLISHES ADVICE TO THE EUROPEAN COMMISSION ON ELIGIBLE ASSETS FOR INVESTMENTS BY UCITS

©2006 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [19653] January 27, 2006 TO: INTERNATIONAL COMMITTEE No. 3-06 RE: CESR PUBLISHES ADVICE TO THE EUROPEAN COMMISSION ON ELIGIBLE ASSETS FOR INVESTMENTS BY UCITS Yesterday, the Committee of European Securities Regulators (CESR) published final advice to the European Commission (EC) on the eligible assets of UCITS. CESR also published a “feedback statement” that highlights the main areas addressed in its advice.¹ The main issues addressed by CESR in its advice are: 1. Clarification of Art. 1(8) (the definition of “transferable securities”); 2. Clarification of Art. 1(9) (the definition of “money market instruments”); 3. Clarification of the scope of Art. 1(8) and the “techniques and instruments” referred to in Art. 21; 4. Other collective investment undertakings in Art. 19(1)(e); 5. Derivative financial instruments in Art. 19(1)(g); and 6. Index replicating UCITS in Art. 22a(1). CESR’s advice with respect to money market instruments may be of particular interest to Institute members. Among other things, in response to a number of industry comments, CESR recommends extending the maturity criteria of money market instruments to 397 days (13 months) for consistency with the U.S. regulations applicable to money market funds. CESR’s technical advice is not legally binding. Based on CESR’s recommendations, the EC will draft regulations for adoption by the European Securities Committee (ESC) that provide legally binding clarifications on asset eligibility for UCITS. Although the timing of the ESC process is not entirely predictable, we understand that an ESC vote on the implementing regulations could be held as early as May 2006. Robert C. Grohowski Senior Counsel - International Affairs 1 Both documents are available on CESR’s web site. The final advice can be found at http://www.cesr-eu.org/data/document/06_005.pdf and the feedback statement can be found at http://www.cesr-eu.org/data/document/06_013.pdf.