

MEMO# 17478

May 7, 2004

ICI COMMENT LETTTER ON MANDATORY REDEMPTION FEE PROPOSAL

[17478] May 7, 2004 TO: 529 PLAN ADVISORY COMMITTEE No. 18-04 BANK AND TRUST ADVISORY COMMITTEE No. 11-04 BROKER/DEALER ADVISORY COMMITTEE No. 16-04 OPERATIONS COMMITTEE No. 9-04 PENSION COMMITTEE No. 25-04 PENSION OPERATIONS ADVISORY COMMITTEE No. 36-04 SEC RULES COMMITTEE No. 41-04 SMALL FUNDS COMMITTEE No. 27-04 TAX COMMITTEE No. 16-04 TRANSFER AGENT ADVISORY COMMITTEE No. 43-04 RE: ICI COMMENT LETTTER ON MANDATORY REDEMPTION FEE PROPOSAL As you know, the Securities and Exchange Commission recently proposed new Rule 22c-2 under the Investment Company Act, which would require mutual funds (with certain limited exceptions) to impose a two percent redemption fee on the redemption of shares purchased within the previous five days.¹ The Institute has prepared a comment letter on the proposal, which is attached and summarized below. The comment letter generally supports the Commission's proposal, but recommends a number of modifications to ensure that the proposed rule achieves its objectives in the most efficient way possible. In summary, the principal comments in the letter are as follows:

- The letter recommends that the final rule require a mandatory minimum redemption fee of at least two percent on redemptions effected within seven calendar days following a purchase;
- The letter supports the Commission's proposed use of a "first in, first out" (FIFO) accounting methodology to determine which redemptions are assessed a redemption fee;

¹ See Memorandum to Bank and Trust Advisory Committee No. 5-04; Broker/Dealer Advisory Committee No. 8-04; Operations Committee No. 4-04; Pension Committee No. 12-04; Pension Operations Advisory Committee No. 22-04; SEC Rules Committee No. 22-04; Small Funds Committee No. 17-04; Tax Committee No. 9-04; and Transfer Agent Advisory Committee No. 25-04 [17171], dated March 8, 2004 and Memorandum to 529 Plan Advisory Committee No. 15-04 [17402], dated April 19, 2004.

- The letter expresses the view that, with the foregoing parameters, transactional exceptions for unanticipated financial emergencies and de minimis redemptions are largely unnecessary, are susceptible to abuse, and will serve only to add complexity and cost to the implementation of the rule;
- The letter recommends that the exception for funds designed for active trading allow such funds the option of adopting a non-fundamental policy (as long as they also provide investors with notice of any change to that policy), rather than requiring them to adopt a fundamental policy as proposed;
- The letter recommends that the Commission modify the proposed rule to clarify that it is designed to "look through" intermediaries and require application of redemption fees to short-term trading by the underlying investors who are the intermediaries' customers;
- The letter recommends that the proposed weekly information flow requirement be replaced with a requirement for a compliance attestation that would provide assurances to funds that intermediaries have the internal controls necessary to fulfill their contractual obligations related to the assessment of redemption

fees and implementation of other market timing restrictions; and • The letter recommends that a reasonable transition period be included in the final rule. Robert C. Grohowski
Associate Counsel Attachment (in .pdf format)

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