

**MEMO# 18316**

December 8, 2004

## **INSTITUTE COMMENT LETTER ON UCITS IMPLEMENTATION ISSUES**

[18316] December 8, 2004 TO: INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 37-04 RE: INSTITUTE COMMENT LETTER ON UCITS IMPLEMENTATION ISSUES Attached is a letter to the Committee of European Securities Regulators (CESR) on issues relating to the transitional provisions and implementation of the UCITS Directive. Generally, the letter urges CESR to use its influence to prevent Member States from diverging from the voluntary guidelines that are ultimately adopted. The letter states that it would be critical that UCITS funds not be subject to conflicting requirements in different Member States if a pan- European UCITS market is to be successful. The letter also makes three specific comments. First, the letter recommends that CESR require a product passport (but no management company passport) if a management company only wishes to distribute UCITS funds managed by itself in a host Member State. Second, the letter expresses concern with CESR's view that open-ended investment companies may only designate a management company in the same EU jurisdiction as the UCITS fund. In effect, this interpretation would mean that a management company and its UCITS funds must be located in the same Member State. Finally, the letter seeks clarification regarding the exact latest date by which a UCITS I umbrella fund may launch UCITS I sub-funds and still benefit from the full grandfathering period up to February 2007 before being required to convert to UCITS III. Jennifer S. Choi Associate Counsel Attachment (in .pdf format)

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