

MEMO# 19554

December 29, 2005

DRAFT ICI COMMENT LETTER ON FSA CONSULTATION PAPER ON SOFT DOLLAR DISCLOSURE TO RETAIL FUND INVESTORS

©2005 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. [19554] December 29, 2005 TO: INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 35-05 RE: DRAFT ICI COMMENT LETTER ON FSA CONSULTATION PAPER ON SOFT DOLLAR DISCLOSURE TO RETAIL FUND INVESTORS As you know, in late September the U.K. Financial Services Authority ("FSA") published a consultation paper on the disclosure of bundled brokerage and soft dollar arrangements ("client commission arrangements") to retail fund investors. As discussed in an earlier ICI memorandum,¹ the FSA noted in the paper that it has endorsed a disclosure-based approach for institutional clients of investment managers and is exploring how to implement a similar disclosure regime in the retail fund context. The Institute has prepared the attached draft comment letter, which is briefly summarized below. Comments on the consultation paper are due to the FSA on January 6, 2006. We will be holding a conference call on Wednesday, January 4, 2006 at 2:00 p.m. Eastern time to discuss the letter. The dial-in number is 888/425-4795 and the passcode is 51624. Please send an email to Ruth Tadesse at rtadesse@ici.org to let us know if you plan to participate on the call. If you cannot participate on the call, please provide any comments on the draft letter to me at 202/326- 5837 or gguymon@ici.org before the time of the call. The draft letter uses the current consultation to express the Institute's views generally on the issue of separating or separately disclosing the execution and research components of client commission arrangements (so called "unbundling"). The letter expresses serious concern with the FSA's approach to unbundling, which will require fund managers to provide unbundled disclosure to clients but does not place any corresponding legal burden on brokers to provide the information to fund managers. The letter argues that, as a result, fund managers will be assuming liability for disclosing information that they cannot know with certainty. Also, the letter points out that because there is no obligation on brokers to provide the information to fund managers, the independent estimates of unbundled costs by fund managers will not be directly comparable and may result in market confusion, rather than increased market efficiency and competition. 1 See Memorandum to Equity Markets Advisory Committee No. 37-05, International Committee No. 22-05, Investment Advisers Committee No. 10-05, and SEC Rules Committee No. 53-05 [19235], dated October 7, 2005. 2 Glen S. Guymon Assistant Counsel - International Affairs Attachment (in .pdf format)

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