

MEMO# 18242

November 23, 2004

DRAFT INSTITUTE COMMENT LETTER ON UCITS IMPLEMENTATION ISSUES

URGENT/ACTION REQUESTED [18242] November 23, 2004 TO: INTERNATIONAL COMMITTEE No. 52-04 RE: DRAFT INSTITUTE COMMENT LETTER ON UCITS IMPLEMENTATION ISSUES

Attached is a draft letter to the Committee of European Securities Regulators (CESR) on issues relating to the transitional provisions and implementation of the UCITS Directive. Comments are due to CESR on December 8, 2004. If you have any comments on the draft letter, please contact me at (202) 326-5810 or jchoi@ici.org by December 3, 2004.

Generally, the draft letter urges CESR to exert peer pressure to prevent Member States from diverging from the voluntary guidelines that are ultimately adopted. The letter states that it would be important that UCITS funds not be subject to conflicting requirements in different Member States if a pan-European UCITS market is to be successful. The draft 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 whether UCITS I umbrella funds that launched subfunds between February 13, 2002 and February 13, 2004 would have to convert to UCITS III umbrella funds by December 31, 2005. Jennifer S. Choi Associate Counsel Attachment (in .pdf format)

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