

**MEMO# 11256**

September 20, 1999

## **FCC AMENDS BROADCAST MEDIA ATTRIBUTION RULES**

1 Review of the Commission's Regulations Governing Attribution Ownership Rule, FCC 99-207 (MM Docket Nos. 94-150, 92-51, and 87-154), 64 Fed. Reg. 50622 (Sept. 17, 1999) (summarizing the Commission's Report and Order, FCC 99-207, Aug. 5, 1999) (the "Release"). 2 See Memorandum to Compliance Committee No. 18-95, Investment Advisers Committee No. 21-95, SEC Rules Committee No. 59-95, and Unit Investment Trust Committee No. 43-95, dated April 18, 1995 (transmitting Institute comment letter on the FCC's Notice of Proposed Rulemaking). 3 See Memorandum to Closed-End Investment Company Committee No. 19-99, Compliance Advisory Committee No. 21-99, SEC Rules Committee No. 45-99, and Unit Investment Trust Committee No. 14-99, dated June 14, 1999 (distributing the updated Summary of Non-1940 Act Investment Restrictions). If you need a copy of the revised Summary, please call Cheryl DeShields at (202) 326-5823. [11256] September 20, 1999 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 32-99 COMPLIANCE ADVISORY COMMITTEE No. 36-99 INVESTMENT ADVISERS COMMITTEE No. 13-99 SEC RULES COMMITTEE No. 69-99 UNIT INVESTMENT TRUST COMMITTEE No. 23-99 RE: FCC AMENDS BROADCAST MEDIA ATTRIBUTION RULES

The Federal Communications Commission (FCC) has issued a final rule amending its broadcast media attribution rules.<sup>1</sup> Among other things, as the Institute had recommended,<sup>2</sup> the FCC increased the attribution benchmark (i.e., the level of ownership at which an entity becomes subject to the FCC's multiple ownership rules) for passive investors (including mutual funds) from 10 percent to 20 percent. According to the Release, this change is intended to give broadcasters increased access to investment capital while preserving the FCC's ability to effectively enforce its ownership rules. Despite the recommendations of the ICI and others to treat registered investment advisers as passive investors for purposes of the attribution rules, the FCC determined to retain its current definition of passive investors, which includes bank trust departments and insurance companies in addition to mutual funds. The FCC stated that it was not expanding its definition of passive investors because it is not convinced that other types of institutional investors, such as certain investment advisers, pension funds, and commercial and investment banks, lack the interest and/or ability to actively participate in the affairs of the firms in which they invest. The FCC's final rules will become effective on November 16, 1999. A copy of the Release and pertinent pages of the Report and Order are attached. Please note that the increase in the FCC's attribution benchmark for passive investors affects our recently updated Summary of Non-1940 Act Investment Restrictions.<sup>3</sup> Specifically, all references to the 10 percent limit on pages 5 and 6 of the Summary should be changed to reflect the new 20 percent limit upon its effectiveness (see attached markup of Summary pages 5 and 6). Doretha VanSlyke

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