

**MEMO# 14801**

June 14, 2002

## **EU SECOND CONSULTATION DRAFT ON ISSUER TRANSPARENCY PROPOSES CHANGES TO BENEFICIAL OWNERSHIP REPORTING THRESHOLD**

ACTION REQUESTED [14801] June 14, 2002 TO: INTERNATIONAL COMMITTEE No. 45-02 RE: EU SECOND CONSULTATION DRAFT ON ISSUER TRANSPARENCY PROPOSES CHANGES TO BENEFICIAL OWNERSHIP REPORTING THRESHOLD Last month, the European Union issued a second consultation towards an EU Regime on Transparency Obligations for Issuers Whose Securities are Admitted to Trading on a Regulated Market. While most of the proposals relate to the rules that would apply to issuers of securities other than investment companies, the proposal also would revise EU rules for disclosing the acquisition or disposal of major holdings by owners of securities. A copy of the Consultation Draft is attached. Section 4.3 of the Second Consultation would revise current EU rules to lower the threshold for disclosing securities holdings from 10% to 5% and would shorten the time in which reports must be filed to 5 days. The Institute had learned that the European Commission was considering drafting such a proposal and wrote a letter to the Commission on April 25, 2002 on this matter. The Institute's letter stated that if the Commission determined to lower the threshold, it should tailor the reporting rules for institutional investors, such as mutual funds and pension funds and their investment managers, that do not invest for a change of control purpose. We recommended that the Commission could do this by retaining a higher reporting threshold for these investors or providing streamlined filing rules for these investors, for example, by permitting them to file annually. We also recommended that the Commission consider incorporating into any revisions a reasonable aggregation rule that would not require affiliates to aggregate all of their positions in a security if the affiliates exercise voting rights and investment decisions independently. A copy of the Institute's April 25 letter is attached. We expect to file comments on Section 4.3 of the Consultation Draft making the same points made in our April 25 letter. 1 If there are any other points with respect to the proposed changes on beneficial ownership reporting that you believe the Institute 1 We also have written to several mutual fund associations in Europe and to the Canadian association to ascertain if they share our views and would file comments on these issues. 2 should raise in its comment letter, please let us know. Also, if you think there are any other matters in the proposals that warrant Institute comment, please let us know. For example, we are considering also mentioning in our letter that we support the principles set forth in Section 4.2 of the Consultation Draft of giving equal effect to shareholder votes cast either in person or in absentia by proxy. Comments must be filed with the European Commission by July 5. If there are issues you would like us to consider addressing in the Institute's comment letter, please contact me by phone at 202-326-5826

or by email at [podesta@ici.org](mailto:podesta@ici.org) before June 26. Mary S. Podesta Senior Counsel Attachment no. 1 (in .pdf format)

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