

MEMO# 14586

March 27, 2002

FINK AND ROYE REMARKS AT 2002 MUTUAL FUNDS CONFERENCE

[14586] March 27, 2002 TO: BOARD OF GOVERNORS No. 13-02 DIRECTOR SERVICES COMMITTEE No. 4-02 PRIMARY CONTACTS - MEMBER COMPLEX No. 27-02 SEC RULES MEMBERS No. 22-02 RE: FINK AND ROYE REMARKS AT 2002 MUTUAL FUNDS CONFERENCE

Institute President Matthew P. Fink and Paul F. Roye, Director of the Securities and Exchange Commission's Division of Investment Management, each delivered a keynote address at the 2002 Mutual Funds and Investment Management Conference. Copies of their speeches are attached, and they are summarized below.

Matthew Fink's Address In his address, Mr. Fink noted that the decline of the market and events such as September 11th and the Enron bankruptcy have failed to shake the confidence of equity fund investors. He attributed this investor confidence to the industry's "long history of supporting strong laws and regulations, of encouraging informed investors, of supporting clear and useable disclosure, of working for adequate resources for the SEC, and of imposing upon ourselves high voluntary standards that go well beyond legal requirements." He noted that one of the most important ways that the industry fulfills its responsibility to investors is by constantly re-evaluating the regulatory framework governing mutual funds to ensure that it continues to serve and protect shareholders.

Fink discussed five current legislative and regulatory topics:

- Restrictions on Market Timers:** Fink noted the adverse affect of market timers on long- term investors and urged the Commission to allow fund companies to impose limits on exchange privileges between funds to discourage this activity.
- Improvements in Disclosure to Investors:** Fink described measures to improve disclosure to individual investors in four areas - shareholder reports, 401(k) plans, fund advertising, and 529 college savings plans.
- 2 Tax Relief for Long-term Fund Shareholders:** Fink cited the work of the industry to promote legislation that would permit mutual fund shareholders to defer taxes on reinvested long-term capital gains distributions.
- Funds as Investors in the Market:** Fink discussed the role mutual funds play as investors in stocks, bonds and other securities. He indicated that, where appropriate, individual funds, as well as the Institute, will continue to press for improvements in market structure, issuer disclosure, and corporate accountability.
- Investment Advice for 401(k) Participants:** Fink addressed the need for better disclosure to 401(k) participants. Specifically, he noted the Institute's support for legislation that would permit the providers of investment products to offer investment advice to plan participants.

In closing, Fink stated that the industry must continue to play an active and constructive role in all areas that affect fund shareholders.

Paul Roye's Address Mr. Roye observed that, during the market decline of the past two years, mutual fund shareholders generally have stayed the course. He credited the continued popularity of funds to the integrity of the fund industry and he urged fund industry professionals to "take responsibility, maintain trust and influence positive change." The industry was built on these core principles, he said, and they must permeate advice to shareholders and

management decisions if the fund industry is to continue to prosper. Taking Responsibility Roye noted that, in addition to its day-to-day responsibilities in connection with the operation of individual funds, fund management also has taken responsibility to address problems that confront funds and the industry as a whole. He cited as examples the 1994 Report of the Advisory Group on Personal Investing, the 1999 Report of the Advisory Group on Best Practices for Fund Directors, and Trade Management Guidelines recently proposed by the Association for Investment Management and Research (AIMR). Roye praised the industry for its conduct in the aftermath of September 11th. He noted that the industry cooperated with regulators and, more importantly, cooperated with each other to restore funds to operation with as little disruption as possible to investors. Roye urged the industry to now take responsibility for contingency planning and the adoption of anti-money laundering procedures. He also encouraged all fund managers to review their funds' valuation procedures with a view toward ensuring that those procedures have the effect of building investor trust and confidence in the fairness of fund valuations. Maintaining Trust Roye stated that maintaining investors' trust is a challenge for the industry, especially in the wake of experiences such as the Enron situation. He emphasized the importance of the integrity of advisers to funds, including independent directors, fund auditors and fund counsel. 3 For its part, the Commission has sought to strengthen these institutions through the recent fund governance rules and clarification of the legal counsel provision in those rules. Roye discussed the important role that fund auditors perform and mentioned the Commission's recent orders and rules addressing issues for funds, advisers and other registrants that may be clients of Arthur Andersen LLP. Influencing Positive Change Roye highlighted the opportunity for the fund industry to provide input on measures to improve the current system of disclosure and accounting. In his opinion, such improvements will enable funds to better monitor the companies they invest in and have a better sense of a company's financial and business condition. He urged funds, in the interest of shareholders, to weigh in on issues of corporate governance, management conflicts, public disclosure, accounting practices and related issues. Commission Actions Roye highlighted some of the ways in which the Commission is seeking to improve its oversight of the industry. First, it is taking steps to modernize its rules and keep up with industry innovation. He cited as examples recently proposed amendments to Rule 17f-4, a concept release issued on actively managed exchange-traded funds, and modernization of the investment adviser registration process. Roye noted that the Commission is also loosening restrictions in areas where the industry has shown that it acts responsibly and with investors' best interests in mind, for example, in connection with certain affiliated transactions. He noted that the Commission is more comfortable expanding exemptive rules now that the independence of directors, upon whom the Commission relies to oversee fund activities, has been strengthened through the recent fund governance rules and the industry best practices. Finally, Roye indicated that the Commission seeks to reduce the amount of time it takes to process no-action letter requests and exemptive applications. Marguerite C. Bateman Associate Counsel Attachments Note: Not all recipients receive the attachments. To obtain copies of the attachments, please visit our members website (<http://members.ici.org>) and search for memo 14586, or call the ICI Library at (202) 326-8304 and request the attachments for memo 14586. Attachment no. 1 (in .pdf format)