The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

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ICI COMMENT LETTER ON PROPOSED ANTI-MONEY LAUNDERING PROGRAM REQUIREMENT FOR INVESTMENT ADVISERS

[16259] July 7, 2003 TO: INVESTMENT ADVISERS COMMITTEE No. 17-03 MONEY LAUNDERING RULES WORKING GROUP No. 45-03 SEC RULES COMMITTEE No. 64-03 RE: ICI COMMENT LETTER ON PROPOSED ANTI-MONEY LAUNDERING PROGRAM REQUIREMENT FOR INVESTMENT ADVISERS The Institute submitted a comment letter today on the recently proposed rule that would require investment advisers to establish anti-money laundering programs.1 A copy of the letter is attached and summarized below. The letter supports the adoption of the rule as proposed and in particular supports a provision in the proposed rule that would allow an adviser to exclude from its anti-money laundering program any pooled investment vehicle it advises that is itself subject to an anti- money laundering program requirement, such as a mutual fund. The letter commends Treasury for seeking to avoid overlap and redundancy in this way and encourages it to apply that same principle in other contexts. The letter also supports the risk-based approach of the proposed rule. It expresses concern, however, with the commentary in the proposing release with respect to the treatment of advisory clients that are pooled investment vehicles not subject to BSA anti-money laundering program requirements, particularly those vehicles that are sponsored or administered by the adviser. The release seems to suggest that an adviser would have to “look through” any pooled investment vehicle that it sponsored, regardless of the relative money laundering risk posed by that vehicle. The letter notes that looking through a pooled investment vehicle to its investors is a difficult and costly proposition and argues that this should be seen as a necessary step only in those cases where the risks of money laundering activity are high. Accordingly, the letter strongly recommends that the commentary accompanying the final rule clarify that an adviser 1 See Financial Crimes Enforcement Network, “Anti-Money Laundering Programs for Investment Advisers,” 68 Fed. Reg. 23646 (May 5, 2003). See also Memorandum to Investment Advisers Committee No. 9-03, Money Laundering Rules Working Group No. 26-03 and SEC Rules Committee No. 42-03 [15974], dated April 29, 2003 (for a description of the proposed rule) and Memorandum to Investment Advisers Committee No. 16-03, Money Laundering Rules Working Group No. 43-03 and SEC Rules Committee No. 62-03 [16250], dated June 27, 2003 (for the draft of this comment letter). 2 may take a risk-based approach to all aspects of its anti-money laundering program, including those that address pooled investment vehicles that the adviser itself sponsors or administers. Frances M. Stadler Deputy Senior Counsel Attachment (in .pdf format)