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ICI and U.S. Chamber of Commerce v. CFTC

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Press Conference Opening Remarks

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Good afternoon. ICI and the Chamber of Commerce have joined together in a legal challenge to a rule by the CFTC that, if allowed to stand, will impose enormous costs and burdens on advisers to registered investment companies and their investors.

We don't bring such an action lightly. ICI and its members exerted a great deal of effort in hopes of helping the CFTC arrive at a workable rule to meet its objectives. The Institute, for example, filed three comment letters, met with the CFTC's commissioners, participated in the Commission's roundtable, and testified on Capitol Hill. The final rule reflects very little, if any, of the information or perspective that ICI and dozens of other commenters provided.

We are bringing this challenge because the CFTC rule is unnecessary, redundant, and costly—and those costs ultimately will be borne by investors.

The rule is unnecessary because mutual funds and other registered investment companies are already the most highly regulated entities in the financial industry. The CFTC never demonstrated any problems with the regulation of registered investment companies.

It is redundant because the CFTC rule layers the agency's own regulatory regime—as well as that of a self-regulatory organization—atop the Securities and Exchange Commission's comprehensive regulation, without remotely justifying such an extra burden on funds.

And it is costly, because the rule will impose significant compliance costs on fund advisers. Ultimately, all of these costs will come out of shareholders' pockets.

We've surveyed some of our members, and just in that group have turned up hundreds

funds whose advisers would be required to register with the CFTC if the rule were in effect now.

But the impact is much greater. The CFTC's rule will affect virtually every registered investment company offered to American investors today. Many funds use the futures, options, and swaps markets to manage risks and improve returns—bringing real and substantial benefits to investors. Other funds bring investors the benefit of commodity exposure as an important asset class for portfolio diversification.

If the CFTC's rule is allowed to stand, every fund adviser, without exception, will be required continually to monitor its activity in these markets. Some will be subject to the redundant, costly regulatory regime of the CFTC, to the detriment of their funds and investors. Others, to avoid this regime, may choose not to use futures, options, and swaps—again, to the detriment of their investors. Unfortunately, either way, investors lose.

Additional costs for no benefit to investors—that's not smart regulation. And it flies in the face of the legal obligations that the CFTC has in conducting its regulatory responsibilities. That's why we're challenging this rule.

Let me turn now to David Hirschmann, President and CEO of the Chamber's Center for Capital Markets Competitiveness, for his remarks. David?
