

ICI Strongly Supports SEC Proposal to Ban Directed Brokerage, May 2004

ICI Strongly Supports SEC Proposal to Ban Directed Brokerage Institute Urged Prohibition on Brokerage for Sales in December 2003

Washington, May 10, 2004 – The Investment Company Institute today expressed strong support for the SEC’s proposed amendment to Rule 12b-1 to prohibit mutual funds from paying for distribution of their fund shares with brokerage commissions. In December 2003, the ICI urged SEC Chairman William H. Donaldson to consider banning this practice.

Acting ICI General Counsel Amy Lancellotta wrote, in a [letter filed with the SEC today](#), that, notwithstanding current regulatory restrictions, “prohibiting the allocation of brokerage based upon sales considerations is warranted because the practice of directed brokerage can give rise to the appearance of conflicts of interest.”

In its letter today, as in the [December letter](#), the ICI urged the SEC to couple the ban with a safe harbor for funds that direct portfolio transactions to brokerage firms that also market the fund’s shares, so long as the fund has implemented and the fund’s board has approved measures to comply with the ban on directed brokerage.

With respect to other [possible changes to Rule 12b-1](#), the Institute noted the “dramatic changes” in how individuals had come to invest in mutual funds since the rule was promulgated 25 years ago. For example, in a 1999 ICI survey, 95% of 12b-1 fees were found to be used as a substitute for front-end sales loads or to pay for administrative services to existing shareholders. The ICI’s comment letter stated that “[t]hese uses of 12b-1 fees, although not anticipated when first adopted, are nevertheless consistent with the rule’s administrative history.”

In light of these changes, the Institute called for updated guidance for fund directors from the SEC. The Institute’s letter also reiterated support for a pending SEC proposal to enhance Rule 12b-1 disclosure.