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ICI Praises New Legislation to Curb Frivolous Lawsuits Against Mutual Fund Advisers

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Washington, DC; September 9, 2020—Investment Company Institute (ICI) President and CEO Paul Schott Stevens issued the following statement after introduction of H.R. 8188, the Mutual Fund Litigation Reform Act, legislation to improve the ability of federal courts to curb abusive lawsuits:

"The Mutual Fund Litigation Reform Act will help federal courts to terminate before trial abusive lawsuits against mutual fund advisers, while preserving the right of shareholders to bring meritorious actions. None of the lawsuits brought since Congress added Section 36(b) in 1970 has resulted in a final judgment against the defendant adviser, evidence that these suits waste adviser resources without any benefit for the shareholders that plaintiff lawyers say they're helping. ICI appreciates the leadership of Representative Tom Emmer (R-MN) as he works to address this important issue for mutual fund advisers and the more than 100 million US mutual fund shareholders."

The Mutual Fund Litigation Reform Act would amend Section 36(b) of the Investment Company Act of 1940, which grants both the Securities and Exchange Commission (SEC) and fund shareholders the right to sue a mutual fund adviser to challenge whether advisory fees are excessive and constitute a breach of the adviser's fiduciary duty. The bill would discourage plaintiffs' attorneys from bringing non-meritorious lawsuits by allowing judges to dismiss those suits at an earlier stage. It also would require plaintiffs to meet a standard of "clear and convincing evidence," showing that it is "substantially more likely than not" that their claims are true. This is the standard required for lawsuits under the Employee Retirement Income Security Act of 1974 (ERISA), various federal whistleblower statutes (e.g., the Sarbanes-Oxley Act), patent law, and several other federal statutes.