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CII White Paper Urges Stronger Overseer, Repeal of Exemption from Liability for Credit Rating Agencies

Washington, D.C., April 14, 2009 — The Council of Institutional Investors (CII) today released a white paper on the regulation of credit rating agencies that calls for stronger oversight and accountability for credit raters.

The paper, “Rethinking Regulation of Credit Rating Agencies: An Institutional Investor Perspective,” was written by Frank Partnoy, George E. Barrett Professor of Law and Finance and director of the Center on Corporate and Securities Law at the University of San Diego School of Law. Given the critical role that rating agencies play in the financial marketplace, the Council commissioned the paper to elicit the pros and cons for investors of reforms that have been proposed for rating agencies designated as Nationally Recognized Statistical Rating Organizations (NRSROs).

Specifically, the paper calls on Congress to:

- Enhance oversight by creating a new Credit Rating Agency Oversight Board or supplementing the authority of the Securities and Exchange Commission (SEC) to substantively regulate rating agency practices – including disclosure, conflicts of interest and rating methodologies – and reduce reliance on ratings.
- Remove rating agencies’ exemption from liability under the Securities Act of 1933 and make NRSROs subject to private rights of action under the anti-fraud provisions of the securities laws.

“Credit rating agencies helped to fuel the global credit crisis by failing to take steps to ensure that their ratings of structured financial products were accurate,” said Gregory Smith, general counsel of Colorado Public Employees’ Retirement Association and a Council board member. “Stronger oversight and real accountability for their actions will help restore the credibility of these financial gatekeepers.”

Smith chairs the Council’s Subcommittee on Credit Rating Agencies. Both he and Partnoy are scheduled to participate in the SEC’s April 15 public roundtable on rating agencies.

The 20-page white paper can be viewed on the Council’s Web site, at: <http://www.cii.org/UserFiles/file/CRAWhitePaper04-14-09.pdf>. The views and opinions expressed in the paper do not necessarily represent the views or opinions of all Council members.

The Council of Institutional Investors (CII) is a nonprofit association of public, union and corporate pension funds with combined assets that exceed \$3 trillion. Member funds are major long-term shareowners with a duty to protect the retirement assets of millions of American workers. The Council strives to educate its members, policymakers and the public about good corporate governance, shareowner rights and related investment issues, and to advocate on members’ behalf.