

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 05-1240**

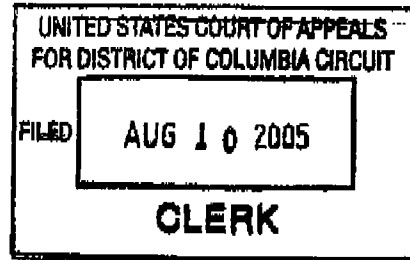
**September Term, 2004**

Filed On:

Chamber of Commerce of the United States of  
America,  
Petitioner

v.

Securities and Exchange Commission,  
Respondent



**BEFORE:** Sentelle, Henderson, and Brown, Circuit Judges

**ORDER**

Upon consideration of the emergency motion for stay, or, alternatively, for expedited briefing, and the response thereto, it is

**ORDERED** that the motion to stay the "75 percent independent director condition" and the "independent chairman condition" readopted by Respondent in its final rule, "Investment Company Governance," issued July 7, 2005, be granted. Petitioner has satisfied the stringent standards required for a stay pending court review. See Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977); D.C. Circuit Handbook of Practice and Internal Procedures 33 (2002). It is

**FURTHER ORDERED** that the following briefing schedule apply in this case:

- |                            |                    |
|----------------------------|--------------------|
| Petitioner's Opening Brief | September 21, 2005 |
| Respondent's Brief         | October 21, 2005   |
| Petitioner's Reply Brief   | November 7, 2005   |
| Deferred Appendix          | November 7, 2005   |
| Final Briefs               | November 14, 2005  |

While not otherwise limited, the parties are directed to address in their briefs whether Respondent had the authority to act on the court's remand prior to issuance of the court's mandate in No. 04-1300, Chamber of Commerce v. Securities and Exchange

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Commission. Cf., United States v. DeFries, 129 F.3d 1293, 1302-03 (D.C. Cir. 1997) (district court does not regain jurisdiction over issues involved in appeal until court of appeals issues its mandate).

The parties are directed to file and serve their briefs by hand on the date due. The court reminds the parties that

[A] petitioner whose standing is not self-evident should establish its standing by the submission of its arguments and any affidavits or other evidence appurtenant thereto at the first appropriate point in the review proceeding. In some cases that will be in response to a motion to dismiss for want of standing; in cases in which no such motion has been made, it will be with the petitioner's opening brief—and not ... in reply to the brief of the respondent agency. In either procedural context the petitioner may carry its burden of production by citing any record evidence relevant to its claim of standing and, if necessary, appending to its filing additional affidavits or other evidence sufficient to support its claim. In its opening brief, the petitioner should also include in the "Jurisdictional Statement" a concise recitation of the basis upon which it claims standing.

Sierra Club v. EPA, 292 F.3d 895, 900-01 (D.C. Cir. 2002).

The Clerk is directed to schedule this case for oral argument on the first available date following the completion of briefing.

Per Curiam

  
KLT  
