

MEMO# 20835

February 1, 2007

SEC Grants Limited No-Action Relief from the Redemption Fee Rule for Agreements with Certain Foreign Intermediaries

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TO: INTERNATIONAL MEMBERS No. 1-07

INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 2-07 RE: SEC GRANTS LIMITED
NO-ACTION RELIEF FROM THE REDEMPTION FEE RULE FOR AGREEMENTS WITH CERTAIN
FOREIGN INTERMEDIARIES

As you know, the SEC's recently adopted redemption fee rule, Rule 22c-2, requires funds to execute shareholder information agreements with each of their financial intermediaries by April 16, 2007. Among other things, these agreements must require the financial intermediaries to provide to the fund, upon request, shareholders' taxpayer identification numbers or government issued identifiers (GII). We understand financial intermediaries located in countries whose privacy laws prohibit the sharing of a GII without prior shareholder consent have been reluctant to sign agreements because of concerns with their ability to obtain consent from their existing shareholders.

To address these concerns, the ICI and the Institute of International Bankers (IIB) filed a joint letter with the SEC staff requesting no-action relief for funds with respect to obtaining shareholder information agreements from foreign financial intermediaries. As noted in the attached letter from the SEC staff responding to our request, the staff has agreed not to recommend enforcement action to the Commission against funds that enter into shareholder information agreements permitting certain foreign intermediaries to supply transaction information to funds through unique identification numbers generated by a

financial intermediary, rather than through the GII required under rule 22c-2, for shareholder accounts established before January 1, 2008. [\[1\]](#)

The Commission's position is based on the following representations in the ICI's and IIB's request for no-action relief:

- Unique identification numbers generated by financial intermediaries would be used only by foreign financial intermediaries that are subject to foreign law prohibiting the sharing of a shareholder's GII without the affirmative prior consent of the shareholder;
- The financial intermediary that generates the unique identification number would use the same unique number to identify all accounts held with that intermediary that have the same ultimate beneficial owner or owners;
- GIIs would be used to fulfill the requirements of rule 22c-2 for shareholder accounts established with such foreign intermediaries after January 1, 2008; and
- The financial intermediary agrees to restrict or prohibit, upon request of a fund, a shareholder that is associated with a particular GII or unique identification number generated by the financial intermediary, from further purchases of the fund's shares.

As noted above, this relief will only apply to those shareholder accounts established with the financial intermediary prior to January 1, 2008. Financial institutions will be required to share the GII of any customer establishing an account with the institution after January 1, 2008. This eleven month period is intended to provide foreign intermediaries sufficient time to change their new account forms and systems to enable them, as part of the account opening process, to obtain their customers' consent to the sharing of GIIs with U.S. mutual funds.

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[Attachment](#)

endnotes

[\[1\]](#) This relief also would enable an "indirect intermediary" (i.e., an intermediary that holds an account directly or indirectly with an intermediary of the fund) to provide an intermediary-generated identification number to another intermediary (or the fund) in response to a fund's request for shareholder information.