

**MEMO# 23196**

January 21, 2009

# **SEC Staff Speech Regarding Division Of Investment Management's 2008 Accomplishments And Priorities For 2009**

[23196]

January 21, 2009

TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 5-09  
COMPLIANCE MEMBERS No. 5-09  
INST. MONEY MARKET FUNDS ADVISORY COMMITTEE No. 2-09  
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 2-09 RE: SEC STAFF SPEECH  
REGARDING DIVISION OF INVESTMENT MANAGEMENT'S 2008 ACCOMPLISHMENTS AND  
PRIORITIES FOR 2009

Andrew "Buddy" Donohue recently delivered remarks outlining the Division of Investment Management's accomplishments in 2008 and its priorities for 2009. He also commented on money market fund pricing policies and closed-end fund repurchases of auction rate securities. [\[1\]](#) His remarks are briefly summarized below.

Mr. Donohue highlighted, among other 2008 accomplishments: the adoption of the summary prospectus, which he viewed as being a successful collaboration among the Commission, the fund industry, and fund investors; the issuance of several no-action letters and a temporary rule to assist money market funds; [\[2\]](#) the adoption of rule amendments requiring mutual funds to file the risk return summary section of their prospectuses in an interactive data format (XBRL); the issuance of Section 19(b) orders to facilitate closed-end funds' managed distribution plans; the issuance of an exemptive order temporarily permitting five closed-end funds to apply lower asset coverage requirements to debt incurred to redeem auction rate preferred securities; and the issuance of a no-action letter

regarding the development of liquidity protected preferred stock as a substitute for auction rate preferred securities.

With respect to closed-end funds' auction rate preferred securities, Mr. Donohue also noted that a number of institutional shareholders have requested funds privately to repurchase these securities at a price below par. He noted that Rule 23c-1 under the Investment Company Act requires shareholder-initiated repurchases to comply with certain conditions, including the fund determining that such a repurchase does not unfairly discriminate against other shareholders. He stated that whether a particular transaction unfairly discriminates against other fund shareholders depends on all the facts and circumstances, and suggested that fund directors carefully consider how to structure a repurchase from one shareholder in an illiquid market in a way that is in the best interests of all shareholders.

For its 2009 priorities, Mr. Donohue indicated that the Division will be considering: the money market fund model and its regulation; adoption of an exchange-traded fund rule; reform of books and records requirements for investment advisers and funds; adoption of soft dollar guidance for fund directors; shareholder report reform; modification of Rule 12b-1; and possible changes to requirements for independent fund directors.

Dorothy M. Donohue  
Senior Associate Counsel

#### **endnotes**

[1] See Speech by SEC Staff: Address at the Mutual Fund Directors Forum Third Annual Directors' Institute, January 13, 2009. The speech is available on the SEC's website at <http://www.sec.gov/news/speech/2009/spch011309ajd.htm>.

[2] In particular, Mr. Donohue noted that a no-action letter permitting money market funds to shadow price securities at amortized cost recently had expired and stated that funds with concerns about occasionally receiving marks from pricing services that do not accurately reflect values may wish to consider developing appropriate price override policies as they have in the case of non-money market funds.