

MEMO# 31776

May 28, 2019

Draft ICI Comment Letter on SEC's Proposal on Closed-End Fund Offering Reform; Member Comments Requested by Monday, June 3

[31776]

May 28, 2019 TO: Closed-End Investment Company Committee

ICI Securities Regulation Advisory Group

SEC Rules Committee

Small Funds Committee RE: Draft ICI Comment Letter on SEC's Proposal on Closed-End Fund Offering Reform; Member Comments Requested by Monday, June 3

In March, the Securities and Exchange Commission proposed amendments that would modify the registration, communications, and offering processes for business development companies ("BDCs") and registered closed-end funds (collectively, "funds").^[1] ICI's draft comment letter on the proposal is attached for your review.

Please provide any written comments to Ken Fang at kenneth.fang@ici.org by close of business on Monday, June 3. Comments on the proposal are due to the SEC by June 10, 2019.

The proposed amendments would implement legislation to streamline the registration process for certain funds, permit funds to satisfy their final prospectus delivery requirements by filing a prospectus with the Commission, and permit funds and others to engage in additional communications prior to and during a registered public offering.^[2] In addition, the Commission proposed discretionary amendments intended to harmonize the disclosure and regulatory framework of funds with other similarly situated issuers. These proposed amendments would modify the registration fee payment method for closed-end interval funds in a manner consistent with mutual funds and exchange-traded funds. The proposed amendments also would place additional requirements on funds by, among other things: (i) imposing new structured data reporting requirements, including on annual Form 24F-2 notices on which many investment companies (e.g., mutual funds and ETFs) calculate and pay registration fees; (ii) requiring funds to provide new annual report disclosures; and (iii) requiring all registered closed-end funds to file current reports on Form 8-K.

The draft letter supports the proposal noting that streamlining the registration process and modernizing the means of delivering prospectuses will save fund shareholders money,

eliminate unnecessary burdens, and allow funds to better time and more easily conduct their offerings. It also supports the communications reforms, which should improve information flow to investors and the broader marketplace. In addition, it strongly supports permitting interval funds to utilize the modified registration fee payment method, as it will allow interval funds to pay SEC registration fees in an easier and less costly manner.

The draft letter recommends:

- Expanding the types of funds that can use the streamlined registration process to include funds that are not listed on a securities exchange.
- Expanding the types of funds that can use the modified registration fee payment method.
- Not including a requirement for certain funds to publicly disclose material, unresolved SEC staff comments.
- Not including a requirement for all registered closed-end funds to provide current reports on Form 8-K.
- Continuing to permit certain closed-end funds' registration statements to become effective automatically when filed only to update financial statements or to make non-material changes.

Our draft letter discusses each of these items in greater detail.

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Kenneth Fang
Assistant General Counsel

[Attachment](#)

endnotes

[1] See Securities Offering Reform for Closed-End Investment Companies, Investment Company Act Release No. 33427 (Mar. 20, 2019) ("Proposing Release"), *available at* <https://www.sec.gov/rules/proposed/2019/33-10619.pdf>. For a summary of the Proposing Release, *please see* ICI Memorandum 31695 (Apr. 2, 2019), *available at* https://www.ici.org/my_ici/memorandum/memo31695.

[2] The SEC is proposing the amendments in response to legislation directing the SEC to adopt rules extending the securities offering reform rules currently available to operating companies to BDCs and closed-end funds. See Small Business Credit Availability Act, Pub. L. No. 115-141, 132 Stat. 348 (2018) (legislation related to BDCs); Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. No. 115-174, 132 Stat. 196 (2018) (legislation related to registered closed-end funds). For a summary of the closed-end fund legislation, *please see* ICI Memorandum 31228 (May 31, 2018), *available at* https://www.ici.org/my_ici/memorandum/memo31228.

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