

MEMO# 24216

April 6, 2010

NASDAQ'S Revised Press Release Requirements

[24216]

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 19-10
SEC RULES MEMBERS No. 29-10
ETF ADVISORY COMMITTEE No. 11-10 RE: NASDAQ'S REVISED PRESS RELEASE REQUIREMENTS

The Securities and Exchange Commission has approved changes to press release requirements for companies listed on The NASDAQ Stock Market LLC ("Nasdaq"). [\[1\]](#) The Release explains that a number of Nasdaq rules require a company to disclose information in a press release, which rules were adopted when a press release was the only way to assure wide dissemination of an important event. Since that time Nasdaq has found that there is wide acceptance of Regulation FD compliant methods of disclosure, such as the use of Form 8-K, and where Nasdaq requirements duplicate Form 8-K requirements, companies are forced to make multiple disclosures about the same event. According to the Release, because Form 8-K disclosures are readily available to investors via the news media, Nasdaq has modified several of its rules to permit disclosure either through a press release or by filing a Form 8-K when required by Commission rules. The most significant aspects of the Release affecting closed-end funds and exchange-traded funds (collectively "funds") are summarized below.

A fund may make a public announcement by filing a Form 8-K when required by Commission rules, or by issuing a press release when: (1) the fund receives notice from Nasdaq that it does not meet a listing standard; (2) the fund receives notice from Nasdaq that the staff has determined to delist it; (3) the fund receives a public reprimand letter from Nasdaq; or (4) there is any change in the terms of a listed unit. A fund that receives a deficiency notice from Nasdaq because it is late in filing a periodic report with the

Commission still is required to issue a press release announcing receipt of the deficiency notice.

According to the Release, a fund is required to make certain disclosures to the MarketWatch Department, rather than multiple departments of Nasdaq, when it receives notice from Nasdaq that the fund does not meet a listing standard or when Nasdaq issues a public reprimand letter to the fund.

Dorothy M. Donohue
Senior Associate Counsel

endnotes

[1] See SEC Release No. 34-61713 (March 15, 2010) [75 FR 13629 (March 22, 2010)] (“Release”). The Release is available on the Commission’s website at <http://www.sec.gov/rules/sro/nasdaq/2010/34-61713.pdf>. The release that proposed these rule changes was summarized in [Memorandum](#) to Closed-End Investment Company Members No. 12-10 and SEC Rules Members No. 17-10 [24140], dated February 18, 2010.

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