

**MEMO# 4139**

October 1, 1992

## **CLOSED-END FUND REQUESTS RELIEF TO REIMBURSE A SHAREHOLDER FOR COSTS INCURRED IN PROXY CONTEST**

October 1, 1992 TO: CLOSED-END FUND COMMITTEE NO. 23-92 RE: CLOSED-END FUND REQUESTS RELIEF TO REIMBURSE A SHAREHOLDER FOR COSTS INCURRED IN PROXY CONTEST \_\_\_\_\_ A closed-end fund and a shareholder of the fund (the "Shareholder") have filed an application with the Securities and Exchange Commission requesting relief under the Investment Company Act to permit the fund to reimburse the Shareholder for expenses incurred in connection with a proxy contest. Specifically, in February 1990, the fund announced that it would hold a combined annual and special meeting of shareholders. The agenda for the meeting included the election of directors and consideration of two advisory proposals, one relating to converting the fund to an open-end fund and the other liquidating the fund. The fund did not announce its position on either proposal at that time. The Shareholder then announced that it intended to nominate its own slate of directors who were committed to conversion or liquidation of the fund and subsequently mailed a proxy statement to shareholders. The fund also mailed proxy materials, soliciting votes for management's slate of directors (who opposed structural changes to the fund) and recommending that shareholders vote against the two advisory proposals. Prior to the meeting date, the fund and the Shareholder executed a settlement agreement that ended the proxy contest. The settlement agreement required, among other things, that the fund would reimburse the Shareholder for expenses incurred in connection with the proxy contest up to \$240,000 if the SEC permitted such reimbursement. The fund and the Shareholder together filed an application requesting relief under Section 17(d) and Rule 17d-1 of the Investment Company Act to permit the fund to reimburse the Shareholder. This relief is necessary since the Shareholder was an "affiliated person" of the fund at the time of the settlement because it owned 10% of the fund's outstanding common shares. The SEC issued the attached release ordering that a hearing on the application be held. A hearing date has not yet been scheduled. We will keep you informed of developments. Amy B.R. Lancellotta Associate Counsel Attachment