

**MEMO# 4282**

November 25, 1992

## **SEC ADOPTS CHANGES TO FORM N-2**

November 25, 1992 TO: BOARD OF GOVERNORS NO. 85-92 CLOSED-END FUND MEMBERS  
NO. 49-92 SEC RULES MEMBERS NO. 64-92 RE: SEC ADOPTS CHANGES TO FORM N-2

The Securities and Exchange Commission has adopted amendments to Form N-2 (the registration statement for closed-end funds) and to rules governing filing requirements, and has published staff guidelines to the Form. As adopted, the amendments incorporate many of the Institute's recommendations. Revised Form N-2 permits closed-end funds to use a simplified prospectus similar to that used by mutual funds. In addition, many closed-end funds will be required to disclose the names and backgrounds of their portfolio managers. However, a fund is required only to disclose the name of the person who is "primarily responsible for the day-to-day management of the fund's portfolio" and, where this is done by a committee, a fund is required to disclose only that the portfolio is managed by a committee, without naming individual members. Disclosure of portfolio managers also has been proposed for open-end fund prospectuses. (See Memorandum to Board of Governors No. 3-90 and SEC Rules Members No. 2-90, dated January 9, 1990.) The amendments will become effective for closed-end funds whose registration statements are initially filed on or after January 1, 1993, except for the amendments to the annual filing requirement contained in Rule 8b-16 under the Investment Company Act of 1940, which will become effective upon publication in the Federal Register. A copy of the SEC's release is attached. Set forth below is a summary of the significant amendments to Form N-2.

**A. Two-Part Format** As amended, Form N-2 will permit, but not require, closed-end funds to use a simplified prospectus similar to that used by mutual funds. Specifically, revised Form N-2 contains three parts: Part A sets forth the requirements for the simplified prospectus, Part B (the SAI), which must be made available upon request, provides additional information about the fund, including the financial statements, and Part C contains exhibits and other information about the fund that must be filed with the registration statement.

**B. Portfolio Management Disclosure** Item 9 of amended Form N-2 includes a new item requiring a fund to disclose the name and title of the person or persons "who are primarily responsible for the day-to-day management of the fund's portfolio", the length of time that each person has been primarily responsible for management of the portfolio, and each person's business experience during the past five years. This requirement is narrower than the original proposal, which would have required disclosure about all persons who "significantly contribute to the fund's investment advice." The Institute's letter on the original proposal expressed concern about the large number of persons whose identity would have to be disclosed and the difficulty in complying with the proposed standard for funds that have complex investment decision-making processes. To alleviate the concern that the new item could be interpreted to require disclosure of numerous advisory professionals, the instructions to Item 9 state that a fund can comply with this requirement by identifying the person who serves as its portfolio manager. An instruction also has been included to

address those instances where funds are managed by committees, stating that this item can be satisfied by disclosing that the fund's portfolio is managed by a committee, without having to name the individual members. At the meeting adopting the changes to Form N-2, Chairman Breeden and other Commissioners expressed the view that the portfolio manager disclosure requirement should be extended to mutual funds.

C. Cover Page Disclosure The caption on the table required on the cover page of a prospectus that referred to underwriting discounts and commissions has been changed to "Sales Load". Instead of requiring a legend warning investors of the tendency of closed-end fund shares to trade at a discount, as originally proposed, prominent disclosure is required on the cover page of an initial offering prospectus that the fund's securities have no history of public trading, that closed-end funds frequently trade at a price below net asset value, and the risk of loss this creates for investors purchasing shares in the initial offering. A fund may omit this disclosure if it believes that its shares are unlikely to trade at a discount from net asset value, so long as the fund's prospectus contains a description of the basis for this belief. The SEC stated in the release that the disclosure describing the frequency of closed-end funds to trade at discounts must be made in a manner that is not misleading and that disclosure creating the impression that closed-end funds shares are as likely to trade at a premium as at a discount would be considered misleading.

D. Fee Table Form N-2, as amended, requires that a tabular presentation of expenses (the "fee table") be included in the beginning of a prospectus that offers common stock. A fee table is not required in prospectuses offering preferred stock, as was originally proposed.

E. Financial Highlights Extensive revisions have been adopted to shorten and simplify the "per share table". The table is divided into three parts: per share operating performance, total investment return, and ratios and supplemental data. Total investment return is required to be calculated based on the market price of the fund's shares. However, funds also may provide total return information based on per share net asset values, so long as a brief explanation of the differences between the two calculations is provided in a note to the financial highlights.

F. Effects of Leverage Funds that have (or are issuing) a class of senior securities will be required to include in their prospectuses a table to illustrate the effects and extent of leveraging.

G. Annual Updating Closed-end funds are no longer required to update their registration statements on an annual basis under Rule 8b-16 of the 1940 Act, so long as certain information is provided to shareholders in the fund's annual report. \* \* \* The Institute will be holding a special one-day workshop on revised Form N-2. Details about the workshop will be sent to you as soon as they are available. Matthew P. Fink President

Attachment