The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 3014

August 14, 1991

INSTITUTE SUBMISSION TO NYSE ON REQUEST FOR RELIEF FROM SHAREHOLDER MEETING AND PROXY VOTING REQUIREMENTS

August 14, 1991 TO: BOARD OF GOVERNORS NO. 60-91 SEC RULES COMMITTEE NO. 47-91 CLOSED-END FUND MEMBERS NO. 37-91 RE: INSTITUTE SUBMISSION TO NYSE ON REQUEST FOR RELIEF FROM SHAREHOLDER MEETING AND PROXY VOTING REQUIREMENTS _____ As you may recall, last summer the Institute submitted a letter to the New York Stock Exchange requesting the Exchange to (1) exempt closed-end funds from the requirement that companies listed on the Exchange hold an annual shareholder meeting and (2) recharacterize the approval of the investment management agreement as a "routine" matter for proxy voting purposes (to allow member organizations to vote shares held in "street name" without instructions from the customer). (See Memorandum to Closed-End Fund Members No. 28-90, dated July 11, 1990.) At a meeting held in May, representatives of the Exchange requested additional information relating to our request. Attached is a memorandum that the Institute recently submitted to the Exchange providing the requested information and responding to concerns raised about the requested relief at the May meeting. In response to the Exchange's concern that exempting closed-end investment companies from the annual shareholder meeting requirement would undermine the Exchange's commitment to corporate democracy, we stated that closed-end funds incur significant costs in holding these meetings, which we do not believe are justified since shareholders have alternative and more effective means for communicating with the fund in which they are invested. Moreover, we noted that very few shareholders attend annual meetings and that those who do attend generally do not raise corporate governance issues. In addition, closed-end funds are subject to detailed regulation under the Investment Company Act of 1940, which requires shareholder meetings under specified circumstances. We explained, however, that neither the 1940 Act nor the state laws under which most closed-end funds are organized require annual shareholder meetings. In support of our request to recharacterize the approval of the investment management agreement as "routine", the memorandum describes the practical difficulties that arise in obtaining the approval of a management agreement under the 1940 Act when brokers are not able to vote shares held in street name without instructions from their clients. Indeed, often a fund will have to adjourn the meeting in order to solicit additional proxies, which results in additional expenses. In response to the Exchange's concern that shareholders should be able to vote on what is presumably the largest fee incurred by the fund, we stated that shareholders have -- in effect -- already approved the

manager and the fee by virtue of their purchase of fund shares, since the prospectus fully and prominently disclosed information about the adviser and its fees. In addition, we note that shareholders will still have the opportunity to vote on the management agreement (since our request would only apply to situations where the broker has not received instructions from the client). Finally, the memorandum explains that this request is consistent with the legislative and administrative history of Section 15 of the 1940 Act. We will keep you informed of developments on this matter. Amy B.R. Lancellotta Assistant General Counsel Attachment

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