

**MEMO# 16712**

October 30, 2003

## **DRAFT INSTITUTE COMMENT LETTER ON AMEX PROPOSAL REQUIRING SHAREHOLDER APPROVAL OF EQUITY COMPENSATION PLANS; VIEWS REQUESTED BY NOVEMBER 4TH**

ACTION REQUESTED [16712] October 30, 2003 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 57-03 SEC RULES COMMITTEE No. 87-03 RE: DRAFT INSTITUTE COMMENT LETTER ON AMEX PROPOSAL REQUIRING SHAREHOLDER APPROVAL OF EQUITY COMPENSATION PLANS; VIEWS REQUESTED BY NOVEMBER 4TH As we previously informed you, the Securities and Exchange Commission has solicited comments on an American Stock Exchange proposed rule change and simultaneously approved that proposal on an accelerated basis.<sup>1</sup> Specifically, Section 711 of the Amex Company Guide, as amended, requires shareholder approval of all equity compensation plans, including stock option plans, and material amendments to such plans, subject to certain limited exceptions. The Institute has prepared a draft comment letter on the proposal. The draft letter is attached and summarized below. The draft letter expresses the Institute's strong support for the Amex proposal. It points out that the Institute has long been an advocate of requiring shareholder approval of stock option plans. The draft letter states the Institute's belief that stock option plans can be beneficial by aligning shareholder and corporate management interests and in furthering corporate stability. It points out that, on the other hand, many stock option plans have a potentially harmful effect on shareholder value through the transfer of wealth and voting power from shareholders to corporate management. The draft letter also states the Institute's view that the popularity of stock option plans and the potentially dilutive effect that they can have on shareholder value underscores the need to ensure that these plans receive appropriate shareholder scrutiny. The draft letter also notes that the Amex proposal is virtually identical to NYSE and Nasdaq rules recently approved by the SEC and expresses support for such a coordinated approach. Comments on the Amex proposal must be submitted to the SEC by November 6th. Please provide any comments that you have on the attached draft comment letter to me no later than 1 See Memorandum to Closed-End Investment Company Members No. 80-03 and SEC Rules Members No. 141-03 [16678], dated October 17, 2003. 2 Tuesday, November 4th by phone (202/218-3563), fax (202/326-5839), or e-mail (ddonohue@ici.org). Dorothy M. Donohue Associate Counsel Attachment (in .pdf format)

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