The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

MEMO# 1774

March 16, 1990

INSTITUTE MEETING WITH STAFF CONCERNING GENERIC COMMENT LETTER

March 16, 1990 TO: CLOSED-END FUND MEMBERS NO. 12-90 OPERATIONS MEMBERS NO. 9-90 SEC RULES MEMBERS NO. 22-90 ACCOUNTING/TREASURERS MEMBERS NO. 8-90 RE: INSTITUTE MEETING WITH STAFF CONCERNING GENERIC COMMENT LETTER _____ The Institute recently met with members of the SEC's Division of Investment Management to discuss certain items in the Division's generic comment letter about which members expressed concern. (See Memorandum to SEC Rules Members No. 4-90, Accounting/Treasurers Members No. 2-90, Closed-End Fund Members No. 1-90 and Operations Members No. 3-90, dated January 19, 1990.) Set forth below is a summary of those items discussed at the meeting which the staff clarified or on which they had suggestions for resolving. 1. A concern was raised by members about the length of the time period for receiving comments on a post-effective amendment that is adding a new series to a fund. The staff responded that they cannot commit to giving comments on post-effective amendments adding a new series more quickly than they are currently doing so. The staff noted that they have no mechanism for determining which post-effectives are adding new series to enable the staff to review them first and that they are under substantial time constraints during post-effective amendment season. However, the staff recommended that funds could possibly shorten the review process by either filing a new registration statement, instead of a post-effective amendment, when adding a new series or by filing a post-effective amendment at a time other than during the post- effective amendment season. 2. Several members were unclear from the staff's letter whether counsel's representation as to the eligibility of the filing to rely on subparagraph (b) of Rule 485 had to be included on the signature page. The staff clarified that counsel's represen- tation does not have be included on the signature page. 3. The staff agreed that the requirement to include a copy of the fund's annual report in each filing, if the financial statements are incorporated therein by reference, is inappropriate for filings made on the EDGAR system. 4. With respect to the required undertaking by a fund to hold a meeting of public shareholders within one year from the date of commencement of operations, the staff stated that if a fund is not able to comply with this undertaking, relief should be requested from the Chief Accountant in the Division's Office of Disclosure and Review. In its request, the fund must state the basis on which it is requesting relief. 5. We commented that risk factors should not be required to be disclosed in a separate section since the risks may be overemphasized if they are not discussed along with the fund's investment techniques. We therefore stated that it was more appropriate to discuss risk factors in the section of the prospectus describing the fund's investment techniques. In response, the staff expressed a general concern about the sufficiency of current disclosure

of risk factors and is therefore requiring funds to disclosure risk factors in a separate section under the heading "Risk Factors." However, the staff stated that funds may list the factors up front in the prospectus and include a more detailed discussion of them in the section describing the fund's investment techniques. 6. The staff clarified that disclosure concerning account transfers only should be made where there are restrictions on transferability between broker/dealer street name accounts. Otherwise, no disclosure should be made. Amy B. Rosenblum Assistant General Counsel

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