

MEMO# 18741

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DRAFT ICI COMMENT LETTER ON PROPOSED CHANGES TO NYSE'S CONTINUED LISTING STANDARDS; YOUR COMMENTS REQUESTED BY APRIL 4TH

©2005 Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice. [18741] April 1, 2005 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 17-05 RE: DRAFT ICI COMMENT LETTER ON PROPOSED CHANGES TO NYSE'S CONTINUED LISTING STANDARDS; YOUR COMMENTS REQUESTED BY APRIL 4TH As we previously informed you, the Securities and Exchange Commission published for comment a proposal filed by the New York Stock Exchange to strengthen its continued listing standards for closed-end funds and other issuers.* The Institute has prepared a draft comment letter on the proposal, which is attached and summarized below. Comments on the proposal must be filed with the SEC by Wednesday, April 6th. Please provide any comments you have on the draft letter no later than Monday, April 4th by phone (202.218-3563), fax (202.326-5827), or email (ddonohue@ici.org). We are particularly interested in any data you can provide regarding the effect of the proposed change on your funds (i.e., whether changing the continued listing standard from \$15 million to \$25 million will cause any of your funds to be subject to delisting). We also are interested in your view on whether advocating keeping the current \$15 million standard for funds in a family risks the NYSE imposing continued listing standards on the fund family (in addition to individual funds). The draft letter opposes the proposed continued listing standards for closed-end funds in a fund family. It suggests modifying the proposal to provide a more equitable continued listing standard for closed-end funds in a family, thereby facilitating a fund family's ability to list all of its funds on the NYSE. The draft letter points out that the NYSE previously recognized that while many fund families prefer to list all of their funds on the same market, they are not able to do so when one or more funds do not meet the exchange's size requirement. To address this, the NYSE provided an alternative initial listing standard for closed-end funds, permitting the listing of all the funds in a family if, among other things, no one fund has a market value of publicly held shares of less than \$30 million (rather than the \$60 million required for the listing of individual * See Memorandum to Closed-End Investment Company Committee No. 16-05 [18723], dated March 29, 2005. 2 closed-end funds). The draft letter points out that funds continue to prefer to list all of their funds on one market and have relied on this alternative listing standard to do so. The draft letter states that in developing its continued listing standards, the Exchange recognized that lower continued listing standards are appropriate for companies that are qualified for initial listing at a lower amount. Each closed-end fund that

is part of a fund family must have a public market value of \$30 million to initially list while stand-alone closed-end funds must have a public market value of \$60 million. Despite this difference in initial listing standards, under the proposal any closed-end fund would be subject to delisting if its public market value fell below \$25 million. Therefore, stand-alone funds would be subject to delisting if they experience more than a 65 percent decline in market capitalization while funds in a family could be subject to delisting if they experience greater than a 16 percent decline in their market capitalization. The draft letter also points out that the proposed standard is particularly inappropriate given that transitory market conditions could cause a sudden and perhaps, short-lived, decline in capitalization that would not be truly indicative of the appropriateness of the fund's continued listing. Accordingly, the letter recommends that the NYSE modify the proposal to subject a closed-end fund that lists as part of a family of funds to the current continued listing standard of \$15 million. Dorothy M. Donohue Associate Counsel Attachment (in .pdf format)

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