

MEMO# 2855

June 19, 1991

SEC SOLICITS COMMENTS ON REFORM OF PROXY VOTING RULES

June 19, 1991 TO: SEC RULES COMMITTEE NO. 35-91 INVESTMENT ISSUES COMMITTEE NO. 4-91 INVESTMENT ADVISERS COMMITTEE NO. 25-91 CLOSED-END FUND COMMITTEE NO. 14-91 RE: SEC SOLICITS COMMENTS ON REFORM OF PROXY VOTING RULES

The Securities and Exchange Commission recently released proposed amendments to its proxy rules under Section 14(a) of the Securities Exchange Act of 1934. The proposals are designed to facilitate shareholder communications and reduce the costs of compliance for persons engaged in proxy solicitations. A copy of the release is attached. The release states that the proposals are intended to be the first in a series of possible rulemaking initiatives relating to corporate governance matters resulting from the Commission's ongoing proxy review project. It contains four proposals which would amend existing proxy rules as described below: 1. Disinterested Persons. Solicitations by "disinterested persons" would be exempt from all proxy rules except for anti-fraud provisions. A disinterested person would be defined as a person who "does not have, and is not acting on behalf of a person who has, a material economic interest in the matters to be acted upon, other than as a securityholder of the registrant..." The disinterested person could not seek the power to act as a proxy for a shareholder nor could he furnish or request shareholder authorization for delivery to the registrant. It appears that the proposal would allow shareholders to communicate among themselves if they believe corporate actions which are the subject of a proxy solicitation would be detrimental to the value of their investment. The proposed exemption would not be available to the registrant, its affiliates and any officers or directors of the registrant or its affiliates. Also, it would not be available to an "interested person" of a registered investment company. 2. Elimination of Preliminary Filing. The Commission is proposing to eliminate preliminary filing requirements with respect to all soliciting materials and Schedules 14B, other than the proxy statement and form of proxy. Instead, all soliciting materials would be filed with, or mailed for filing to, the Commission simultaneously with their use. This amendment is intended to streamline the solicitation process by reducing costs and alleviating timing concerns. 3. Elimination of Proxy Confidentiality. The proposed amendments would provide that all proxy material, whether in preliminary or definitive form, would be public upon filing with the Commission. 4. Access to Securityholder Lists. Finally, the Commission is proposing to eliminate the registrant's existing choice to mail a requesting securityholder's proxy materials rather than produce a securityholder list upon request, and to transfer that choice to the requesting securityholder. The proposal also would expand the scope of the list to encompass the names, addresses and securities holdings of record and beneficial owners. The securityholder list must be delivered within 5 business days of the receipt of the request for the list. The list could be used solely for the purpose of engaging in a solicitation of securityholders with respect to the subject matter or

meeting for which the registrant is soliciting or intends to solicit. However, if the registrant has actually commenced a solicitation, the list could be used for other purposes. For example, one securityholder could use the list to "test the waters" or gauge the interest of other securityholders in determining whether to mount a solicitation in opposition to the registrant's management. Comment letters responding to the proposals and the questions presented therein must be filed 45 days after the release is published in the Federal Register. If there are positions you would like the Institute to consider in a comment letter, please call me no later than July 15, 1991 at 202/955- 3516. W. Richard Mason Assistant Counsel Attachment

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