

MEMO# 19208

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NYSE PROPOSAL REGARDING LISTING AND ANNUAL FEES; YOUR VIEWS REQUESTED BY OCTOBER 5TH

©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. [19208] September 30, 2005 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 31-05 RE: NYSE PROPOSAL REGARDING LISTING AND ANNUAL FEES; YOUR VIEWS REQUESTED BY OCTOBER 5TH The Securities and Exchange Commission recently published for comment a proposal filed by the New York Stock Exchange to amend its listing fees.¹ The proposal resulted from the NYSE's review of its listing fees. According to the Release, most of the proposed fee changes will be implemented upon Commission approval of the fee changes. The proposed fee changes for closed-end funds are summarized below. Comments on the proposal are due to the SEC by October 14th. The Institute is considering submitting a comment letter on the proposal. Please provide any comments you would like us to consider including in such a letter by email (ddonohue@ici.org) or phone (202.218-3563) as soon as possible but no later than Wednesday, October 5th. Reorganization of Fee Provisions Under the proposal, Section 902.00 of the Listed Company Manual would be reformatted to set out general information applicable to all fees, as well as separate fee provisions for closed-end fund shares and other types of securities.² In addition, the terms, "original listing" and "initial listing fees" would be replaced with the term, "Listing Fees" and "continuing annual fees" would be replaced with "Annual Fees." Limitations on Fees Under the proposal, issuers other than closed-end funds, exchange-traded funds, and structured products would pay no more than \$500,000 annually in aggregate listing and annual fees. This would be a 50% decrease in the current overall fee cap of \$1 million. ¹ Securities and Exchange Act Release No. 52463 (September 16, 2005), 70 FR 55933 (September 23, 2005) ("Release"). The Release is available at <http://www.sec.gov/rules/sro/nyse/34-52463.pdf>. ² Listing fees for closed-end fund shares would appear in Section 902.04 of the Listed Company Manual. ³ Closed-end funds would continue to be subject to a series of listing and annual fees, including: (1) a maximum listing fee of \$40,000 for a single closed-end fund; (2) a maximum collective listing fee of \$75,000 for two or more closed-end funds from the same fund family that list at approximately the same time; (3) a maximum listing fee of \$500,000 per transaction for the issuance of additional shares of an already listed fund (e.g., mergers, consolidations); (4) a 5% discount off the annual fee paid for each fund listed that is part of a fund family that lists between 3 and 14 closed-end funds and a 15% discount for each fund listed that is part of a fund family that lists 15 or more funds; and (5) a maximum of \$1 million in aggregate annual fees for any fund family in any given year.

Under the proposal, the maximum listing fee for all issuers, including closed-end funds, for shares issued in connection with stock splits and stock dividends would be \$150,000 (instead of the current maximum of \$250,000 for stock splits). Clarification of Billing Practices The proposal would clarify that the listing discount that applies to funds in a family would apply when those funds list at approximately the same time instead of requiring that all such funds list on the same day. The Release states that the NYSE will consider funds from the same fund family to be listing at approximately the same time if an issuer provides notice that such funds will be listed as part of the same transaction. Dorothy M. Donohue Associate Counsel 3 Annual fees for closed-end funds would be calculated at a rate of \$0.00093 per share.

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