

MEMO# 5177

September 23, 1993

SEC PROPOSES AMENDMENTS TO PROCEDURES FOR FILING POST-EFFECTIVE AMENDMENTS

September 23, 1993 TO: CLOSED-END FUND COMMITTEE NO. 22-93 SEC RULES COMMITTEE NO. 82-93 UNIT INVESTMENT TRUST COMMITTEE NO. 46-93 RE: SEC PROPOSES AMENDMENTS TO PROCEDURES FOR FILING POST-EFFECTIVE AMENDMENTS

The Securities and Exchange Commission has proposed amendments to Rule 485 under the Securities Act of 1933 under which mutual funds and unit investment trusts file post-effective amendments to their registration statements. In addition, the SEC has repropose Rule 485a, which would establish procedures for closed-end interval funds similar to the proposed amendments to Rule 485. The proposed amendments are intended to simplify the operation of the current filing procedures and expand the conditions under which post-effective amendments are permitted to become effective automatically. Set forth below is a brief summary of the proposed amendments. Paragraph (b) of Rule 485 The SEC has proposed to expand the purposes for which a post-effective amendment under paragraph (b) of Rule 485 ("B-Amendments") could be filed. Under the amendments, a fund could file a B-Amendment to make non-material changes in its registration statement, regardless of whether the amendment is filed in conjunction with the annual update, and to include or update the investment performance information required by recently adopted Item 5A of Form N-1A. The SEC has solicited comment on whether there are additional purposes for which automatic effectiveness should be provided under paragraph (b). In addition, the SEC has proposed to delete the list of events in paragraph (b)(2) that preclude the filing of a B-Amendment (e.g., termination of an investment advisory contract), since they presumably would result in material changes to the registration statement. The SEC also has proposed an amendment to paragraph (b) that would provide the SEC with discretionary authority to permit certain types of post-effective amendments not otherwise eligible for automatic effectiveness to become effective automatically without staff review. (For example, a change in federal tax law may result in the need for similar changes in all fund registration statements that, while material, may not raise the types of disclosure issues that require staff review.) Under the proposed amendments, a fund would be permitted to use a B-Amendment to delay for up to 30 days the effective date of a previously filed amendment under Rule 485(a). The effect of this amendment would be to permit funds to file amendments under paragraph (a) up to 110 days prior to the required effective date, rather than 60 to 80 days as is currently permitted. Compliance with N-SAR Filing Requirements The SEC has proposed that use of paragraph (b) of Rule 485 be conditioned upon a fund's having on file with the SEC a current report on Form N-SAR. In addition, the SEC has proposed amendments to the instructions to Form N-SAR to set forth procedures for

addressing a failure to file in the event one or more filings have been missed. Compliance with the Conditions Under Paragraph (b) Under the proposed amendments, a new paragraph would be added to Rule 485 under which the SEC may suspend the ability of a fund to use paragraph (b) if a fund designates an amendment as a B-Amendment when it is not eligible to use that paragraph. Post-Effective Amendments Adding Series The SEC has proposed to add a new paragraph to Rule 485 to prevent the use of that Rule for an amendment that adds a series to an open-end management fund. Thus, a post-effective amendment that adds a new series would become effective only when the staff declares it effective pursuant to delegated authority. Closed-End Interval Funds The SEC previously had proposed a rule similar to Rule 485, proposed Rule 485a, for closed-end interval funds. The SEC has redesignated proposed Rule 485a as Rule 486 and is repropounding the Rule to reflect the amendments proposed to Rule 485. * * * A copy of the SEC release is attached. Comments are due on the proposed amendments to the post-effective amendment filing procedures 60 days after they are published in the Federal Register. Please provide me with your comments on the proposed amendments by October 22, 1993. My direct number is 202/955-3523 and the fax number is 202/659-1519. Amy B.R. Lancellotta Associate Counsel
Attachment

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