

MEMO# 10128

July 14, 1998

DRAFT ICI LETTER REQUESTING SEC TO PERMIT INTERVAL FUNDS TO PAY REGISTRATION FEES BASED ON NET SALES

[10128] July 14, 1998 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 12-98 RE: DRAFT ICI LETTER REQUESTING SEC TO PERMIT INTERVAL FUNDS TO PAY REGISTRATION FEES BASED ON NET SALES

_____ At previous Closed-End Investment Company meetings, we discussed submitting a proposal to the SEC to allow interval funds to net repurchases against new sales for purposes of payment of registration fees. Attached is a draft letter requesting the SEC to amend the interval fund rule, Rule 23c-3 under the Investment Company Act of 1940, to allow interval funds to pay registration fees based on net sales. The letter argues that the same policy considerations that allow open-end funds to net redemptions under Section 24(f) and Rule 24f-2 apply to interval funds. In particular, interval funds making continuous offerings, like open-end funds, face the fundamental issue that Section 24 was meant to address: inadvertent "over sales" (i.e., sales in excess of securities registered). In addition, the letter states that the SEC, based on a determination that it would be "equitable and appropriate" to treat unit investment trusts similarly to open-end funds, permits unit investment trusts to pay registration fees only on net sales. Considerations of fairness suggest that interval funds, which also are obligated to regularly repurchase their shares, should be treated similarly. Finally, the letter asserts that not allowing interval funds to pay registration fees based on net sales could result in inordinately high registration fees for these funds and their shareholders and also could place them at a competitive disadvantage. Please provide the undersigned with comments on the draft letter by July 30, 1998. I can be reached by telephone at 202/326-5824, by fax at 202/326-5827 and by e-mail at amy@ici.org. Amy B.R. Lancellotta Senior Counsel Attachment