

MEMO# 19563

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NASDAQ PROPOSAL REGARDING ANNUAL SHAREHOLDER MEETING REQUIREMENTS; YOUR VIEWS REQUESTED BY JANUARY 9TH

©2006 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. [19563] January 3, 2006 TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 2-06 UNIT INVESTMENT TRUST COMMITTEE No. 1-06 RE: NASDAQ PROPOSAL REGARDING ANNUAL SHAREHOLDER MEETING REQUIREMENTS; YOUR VIEWS REQUESTED BY JANUARY 9TH The Securities and Exchange Commission recently published for comment a proposal filed by Nasdaq to amend its annual shareholder meeting requirements.¹ The proposed changes are summarized below. Comments on the proposal are due to the SEC by January 18th. 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 Monday, January 9th. Under the proposal, NASD Rule 4350(e) would be amended so that only issuers of voting and non-voting common and voting preferred stock (and their equivalents) would be required to hold annual shareholder meetings. This change would be accompanied by explanatory material, IM-4350-8, stating that unit investment trusts and open-end management investment companies organized as exchange-traded funds, and any other listed unit investment trusts would not be required to hold annual shareholder meetings. According to the Release, Nasdaq has not required certain of these issuers to hold annual shareholder meetings, and the proposed change is intended to clearly identify issuers subject to the annual meeting requirement. In addition, under the proposal, the requirement for issuers to notify Nasdaq of their annual meetings would be eliminated. The Release explains that Nasdaq does not rely on this notification to monitor compliance with the annual shareholder meeting requirement but instead reviews proxy statements to determine compliance. ¹ Securities Exchange Act Release No. 52985 (December 20, 2005), 70 FR 76895 (December 28, 2005) ("Release"). The Release is available at <http://www.sec.gov/rules/sro/nasd/34-52985.pdf>. ² Finally, under the proposal, any newly listed issuer would be required to hold an annual shareholder meeting within one year of the end of its fiscal year. The Release explains that codifying this time frame would provide additional transparency to the annual meeting requirement. Dorothy M. Donohue Associate Counsel

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