

**MEMO# 1033**

March 21, 1989

## **SEC PROPOSES RULE CHANGES CONCERNING DISCLOSURE OF OWNERSHIP IN PUBLIC COMPANIES**

March 21, 1989 TO: SEC RULES COMMITTEE NO. 17-89 CLOSED-END FUND COMMITTEE NO. 6-89 INVESTMENT ADVISERS COMMITTEE NO. 14-89 RE: SEC PROPOSES RULE CHANGES CONCERNING DISCLOSURE OF OWNERSHIP IN PUBLIC COMPANIES

The SEC has proposed amendments to Rules 13d-1, 13d-2 and 13d-7 and Schedules 13D and 13G under the Securities Exchange Act of 1934, relating to the reporting of beneficial ownership in publicly-held corporations. Briefly, the proposed changes would allow non-institutional investors to use the short form Schedule 13G for reporting holdings of more than five percent of a class of equity securities, provided the filing person has a passive investment purpose and owns less than 20 percent of that class. The revised rules would also require all institutional investors that currently are eligible to file on Schedule 13G, pursuant to Rule 13d-1(b)(1), to file a Schedule 13D within ten days of the acquisition of 20% or more of a class of equity securities. Any such institutional investor would be subject to a "cooling-off period" that would terminate upon filing of the Schedule 13D. During the cooling-off period, the investor could not vote (or direct the voting of) the securities, or acquire additional beneficial ownership in securities of the same class. In its release, the SEC seeks comments on several issues of interest to institutional investors, including (1) whether institutional investors should continue to be required to certify that investments are being made "in the ordinary course of business" in order to file Schedule 13G on an annual basis, (2) whether investors that are eligible to file on Schedule 13G should be required to do so (as opposed to retaining the option to file on Schedule 13D), (3) the appropriateness of the length of the cooling-off periods, (4) the appropriateness of the 20% threshold for Schedule 13D filings and (5) whether Schedule 13Gs that are currently filed on an annual basis should be required to be filed more frequently. (With respect to (5), the SEC seeks specific data on the volume of transactions subject to reporting on Schedule 13G and the additional procedures and costs that would result from more frequent filings.) The proposals would also require copies of all Schedule 13Gs to be sent to each exchange on which the security is traded (as opposed to only the primary exchange) and that, in the case of securities listed on NASDAQ, a copy be sent to the NASD. In a separate release, the SEC has proposed amendments to certain schedules filed in connection with tender offers, proxy contests, going private transactions and other control transactions, including Schedule 13D. The revisions would require disclosure of all significant equity participants in limited partnerships and other persons making such filings. Copies of both releases are attached. Comments on the proposals are due May 15 and May 12, respectively. If there are comments you feel the Institute should make, please contact the undersigned by May 1.

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