

## COMMENT LETTER

June 13, 2007

# Institute's Proposal to Amend Rule 19a-1 Under the Investment Company Act (pdf)

By Electronic Delivery June 13, 2007 Robert Plaze Associate Director Division of Investment Management U. S. Securities and Exchange Commission 100 F Street, NE Washington, DC 20549 Re: Recommendations Regarding Amendments to Rule 19a-1 Dear Mr. Plaze: The Investment Company Institute<sup>1</sup> is submitting for your consideration recommendations to amend Rule 19a-1 under the Investment Company Act of 1940. As you know, Rule 19a-1, which governs how a fund calculates and discloses the sources of its distributions, has not been revised substantively since its adoption in 1941. Since that time, technological advances, such as the Internet, have altered dramatically the way funds provide, and shareholders access, information. The types and complexity of investments made by funds, the accounting and tax treatment of these investments, and fund distribution practices also have changed significantly. The Institute has worked extensively with its members to develop recommendations that would update Rule 19a-1 to reflect these developments. The revisions we recommend below will permit funds to communicate more effectively with their shareholders, and shareholders to more readily access and compare information on fund distributions.<sup>2</sup>

<sup>1</sup> The Investment Company Institute is the national association of the U.S. investment company industry. More information about the Institute is available at the end of this letter. <sup>2</sup> In an attachment to this letter, we have provided text of amendments to Rule 19a-1 that would need to be made to effectuate our recommendations. We recognize that both Rule 19a-1 and Rule 19b-1 are intended to enhance shareholder understanding of the nature of fund distributions from sources other than net investment income. Our proposed amendments to Rule 19a-1 would not address all of the issues encountered by closed-end funds that offer, or seek to offer, managed distribution plans pursuant to Section 19(b) exemptive orders. The Commission staff recently issued a revised set of conditions for closed-end funds seeking these orders. See Letter from James M. Curtis, Branch Chief, Division of Investment Management, U.S. Securities and Exchange Commission to Dorothy M. Donohue, Senior Associate Counsel, Investment Company Institute, dated December 21, 2006. We urge the Commission to consider proposing amendments to Rule 19a-1 and Rule 19b-1 concurrently and to propose amendments to Rule 19b-1 that are more flexible than the conditions recently issued by the staff. See, e.g., Letter from Dorothy M. Donohue, Senior Associate Counsel, Investment Company Institute to Cate Marshall, Senior Counsel, Division of Investment Management, U.S. Securities and Exchange Commission, dated November 17, 2006.

Mr. Robert Plaze June 13, 2007 Page 2 of 10 Background and Summary of Recommendations Section 19(a) requires the payment of any dividend, or a distribution

in the nature of a dividend payment, to be accompanied by a written statement, (a "Section 19(a) Notice") that adequately discloses the source(s) of a payment if it is made from any source other than accumulated undistributed net income. Rule 19a-1(a) requires the Section 19(a) Notice to be on a separate piece of paper, and to clearly indicate what portion of the payment is from: (1) net income; (2) net profits from the sale of securities or other properties; and/or (3) paid-in surplus or any other capital source. Section 19(a) and Rule 19a-1 are intended to protect fund shareholders from mistakenly believing returns of capital or distributions of capital gains are income of a recurring nature.<sup>3</sup> Commission staff recently reiterated the importance of this requirement, stating that it is a basic and fundamental requirement to accompany the payment of any distribution from a source other than net income with a written statement identifying the source of the payment.<sup>4</sup> The objective of Section 19(a) can be achieved by requiring funds to disseminate information about distributions through the Internet within a reasonable amount of time after a distribution is made and in periodic shareholder communications. We therefore recommend that the Commission update Rule 19a-1 to permit funds to satisfy their disclosure obligations by posting the required information on their own, or an affiliate's, website within a reasonable amount of time after a distribution and additionally transmitting the required information to beneficial shareholders no less frequently than quarterly in account statements or other written communications. We also recommend clarifying Rule 19a-1 to prescribe the accounting treatment for calculating the sources of fund distributions. A fund's distribution generally should be treated as arising first from net investment income (a book concept) and calculated under generally accepted accounting principles ("GAAP"). Amounts distributed in excess of net income should be treated as other taxable income and net realized gains (i.e., capital gains) so long as they are supported by earnings and profits (calculated on a tax basis). The remainder of the distribution, if any, should be treated as a non-taxable return of capital as determined for federal income tax purposes.<sup>5</sup> Rule 19a-1(e) should be amended to clarify that any revision to amounts previously subject to Section 19(a) reporting be made cumulatively. Finally, we recommend providing an exception from Section 19(a) Notice reporting for de minimis amounts of capital gain or return of capital. <sup>3</sup> See, e.g., Hearings Before a Subcommittee of the Committee on Banking and Currency of the United States Senate on S.3580, 76th Cong. (3rd Session) 275, 278 (1940). <sup>4</sup> See, e.g., Andrew J. Donohue, Keynote Address at 2007 Mutual Funds and Investment Management Conference (March 26, 2007). <sup>5</sup> Reporting return of capital on a tax basis is consistent with AICPA Statement of Position No. 93-2, Determination, Disclosure, and Financial Statement Presentation of Income, Capital Gain, and Return of Capital Distributions by Investment Companies, as incorporated into and superseded by AICPA Audit and Accounting Guide for Investment Companies (May 1, 2006), paragraphs 12.31-12.38 ("ROC-SOP"). Mr. Robert Plaze June 13, 2007 Page 3 of 10 The recommended approach will improve the comparability of Section 19(a) Notice information, alleviate shareholder confusion, and provide shareholders with more meaningful information about fund distributions.

Recommendations for Improved Disclosure Internet Disclosure. We recommend amending Rule 19a-1 to require funds to post their Section 19(a) Notices on the Internet. Under our proposal, prior to initial posting, closed-end funds would be required to disclose by means of a press release that Section 19(a) Notices will be posted to a specified website, while mutual funds would be required to make this disclosure in their prospectuses.<sup>6</sup> All funds would be required to disclose in their semi-annual and annual shareholder reports the Internet availability and location of Section 19(a) Notices. Funds would be required to keep their Section 19(a) Notices on the website for at least twenty-four months from the date of posting. Posting Section 19(a) Notices on the Internet will benefit fund shareholders. A great majority of fund shareholders use the Internet on a regular basis including for financial purposes.<sup>7</sup> Making this information available through the Internet will enable

shareholders to access information about the sources of their distribution contemporaneously with receipt of the distribution.<sup>8</sup> Shareholders also may review the information whenever they wish without concern for physically storing and retrieving written notices, and easily put it in context with other information about the fund available on the Internet. Internet posting also will benefit prospective investors, who otherwise will not have access to Section 19(a) Notice information, and third parties collecting and analyzing the information to the benefit of shareholders and the market. We believe the benefits of posting this information on the Internet would exceed the cost of this additional reporting obligation. Periodic Written Statements. Section 19(a) provides that the payment of any dividend or distribution be “accompanied” by a written statement. The Commission staff already has recognized that the purposes of Section 19(a) can be satisfied when funds inform shareholders of 6 Unlike mutual fund shareholders, closed-end fund shareholders that purchase shares in the secondary market do not receive the fund’s prospectus upon or closely following investment. Therefore, closed-end funds would disclose the availability of Section 19(a) Notices through press releases. Under our proposal, all funds would be required to make this same disclosure in shareholder reports. Because shareholder reports are distributed semi-annually, shareholders would be informed of the Internet availability of Section 19(a) Notices by means of a shareholder report no later than eight months after their initial purchase. 7 See Investment Company Institute, *Ownership of Mutual Funds and Use of the Internet*, 2006, Research Fundamentals, Vol. 15, No. 6, October 2006 at pp. 8 and 9; and Investment Company Act Rel. No. 27671 at p. 8 (January 22, 2007) (permitting proxy statements to be made available on the Internet). 8 Using the Internet in this context is consistent with the Commission’s efforts to “enhance[] the efficiency of the securities markets by allowing for the rapid dissemination of information to investors and financial markets in a more cost-efficient, widespread, and equitable manner than traditional paper-based methods.” See Investment Company Act Rel. No. 21399 (October 6, 1995) (permitting the delivery of prospectuses, annual reports, and proxy solicitation materials through electronic media). See also IC Rel. No. 27671 (January 22, 2007) (permitting issuers to post proxy materials on a website if shareholders are provided with a notice informing them that the materials are available and explaining how to access them). Mr. Robert Plaze June 13, 2007 Page 4 of 10 the source(s) of distributions on, or together with, quarterly account statements or on check stubs.<sup>9</sup> We recommend that the Commission codify this relief in Rule 19a-1. Consistent with this relief, we urge the Commission to use its exemptive authority to additionally permit funds to provide shareholders with information about distributions no less frequently than quarterly in any other type of written communication mailed (including by electronic mail) either together with, or separately from, account statements.<sup>10</sup> Our recommended approach will permit funds to communicate distribution information to beneficial shareholders in a cost-efficient manner that takes into account how shares are distributed. For example, funds sold directly to beneficial owners may choose to transmit information to them on or with account statements or distribution checks.<sup>11</sup> Transmitting information to beneficial owners in this way generally is not an option for broker-sold funds. Brokers prepare and send account statements to each customer that include relevant information about the customer’s fund and other brokerage account holdings. Our members report that it is not always reliable or possible to include Section 19(a) Notice information on or with brokerage statements. Brokerage statements generally have three fields for reporting distribution information. The fields identify income, short-term capital gain and long-term capital gain that has been distributed for the period covered by the statement. Our members report that it will be a challenging and lengthy process to work with brokers to modify the format of their statements. It similarly would be difficult to convince brokers to mail a separate Section 19(a) Notice together with brokerage statements. The flexible 9 See Investment Company

Institute, SEC No-Action Letter (pub. avail. July 22, 1996) (permitting funds to inform shareholders of the source(s) of distributions on, or together with, quarterly account statements if the distributions are automatically reinvested in fund shares or are directed to a bank or brokerage account or to a third party or on a check stub for funds that pay distributions by check). See also IDS Bond Fund, Inc., et al., IC Rel. Nos. 15545 (Jan. 16, 1987) (notice) and 15581 (Feb. 13, 1987) (order) (permitting funds that pay monthly distributions to include Section 19(a) Notice information in quarterly account statements; Standard & Poor's/Intercapital Liquid Asset Fund, Inc., IC Rel. Nos. 9342 (Jul. 6, 1976) (notice) and 9397 (Aug. 13, 1976) (order) (permitting a money market fund to make daily credits of accrued income to shareholder accounts but to provide Section 19(a) Notice information in quarterly or monthly statements). 10 Section 6(c) of the Investment Company Act provides the Commission with broad authority to conditionally or unconditionally exempt any person, security or transaction from any provisions of the Investment Company Act or of any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Investment Company Act. 11 We recommend permitting all funds, including direct-sold funds, to disclose Section 19(a) Notice information either on, together with, or separately from account statements. Our members report that it is important to retain the flexibility to report net investment income on a tax basis in account statements because this information is important for beneficial owners for tax planning and other purposes. Under our proposal, a fund would be permitted to disclose net investment income on a tax basis in account statements. If its distribution for a particular period also consisted of capital gain or return of capital, the fund additionally would be required to transmit to beneficial owners Section 19(a) Notice information either on account statements or other written communication (which could include a confirmation under Rule 10b-10 under the Securities Exchange Act of 1934). We see no reason not to permit this flexibility. Mr. Robert Plaze June 13, 2007 Page 5 of 10 approach we recommend would permit funds to work with broker dealers to develop efficient and effective ways to transmit distribution information to beneficial shareholders. 12 Under our proposal, funds that make monthly distributions would achieve a significant cost savings by being permitted to transmit Section 19(a) Notice information to beneficial shareholders in quarterly written statements. Our research indicates that quarterly disclosure would cost approximately \$1.84 per shareholder account per year as compared to \$5.52 per shareholder account per year for transmitting this information to beneficial owners monthly. 13 The cost of sending the notices monthly clearly exceeds any corresponding benefit, particularly given that shareholders would be able to access this information on the Internet at any time. We believe that each of the methods described above, particularly when coupled with Internet disclosure would accomplish the purpose of Section 19(a), which is to afford shareholders adequate disclosure of the sources from which dividend payments are made. Recommendations For Determining Reportable Amounts We recommend amending Rule 19a-1 to standardize calculations for Section 19(a) reporting as follows: • Determine net income by reference to net investment income (a book concept); • Treat a distribution as always being paid first from net income, unless management designates otherwise; • Report any amount paid in excess of net income as other taxable income and net realized gains to the extent the fund has earnings and profits (calculated on a tax basis) to support the distribution; • Report the remainder of the distribution as a return of capital (a tax concept); • Revise Section 19(a) Notices (as needed) cumulatively; and • Exclude from reporting otherwise reportable amounts that are de minimis. Our members report that there is considerable confusion among their shareholders because the information they receive on their IRS Forms 1099 differs from the information in their Section 19(a) Notices. These differences arise, in part,

because the Internal Revenue Code of 1986, as amended (the “Code”) requires funds to provide shareholders with information 12 Our amendments would require broker-dealers and banks to forward Section 19(a) Notice information to beneficial owners of fund shares. This is consistent with rules requiring these entities to forward proxy materials and shareholder reports to beneficial owners. See, e.g., Rule 14b-1(b)(2) under the 1934 Act. 13 The Institute gathered information on the fifty-four closed-end funds with managed distribution plans. Of these funds, twenty-eight have monthly distribution plans. To mail Section 19(a) notices to beneficial shareholders, these funds would incur an annual cost of approximately \$5.52 per shareholder account. Twenty-six funds have quarterly distribution plans. These funds would incur an annual cost of approximately \$1.84 per shareholder account. We estimate that printing will cost 5 cents per account and postage will cost 41 cents per account, for a total of 46 cents per account per mailing. We do not have data on the frequency with which fund shareholders have consented to receive material from their brokers electronically. For those shareholders that have opted for e-delivery, costs would be less than for those who receive materials through the mail. Mr. Robert Plaze June 13, 2007 Page 6 of 10 regarding the tax character of distributions received to help them properly calculate their income tax returns.14 Section 19(a) reporting, in contrast, is intended to ensure reporting of non- recurring amounts, based on “good accounting practice” (which may vary from the tax laws). Funds may realize income from a variety of transactions that do not fit into the same categories for tax and Section 19(a) reporting purposes. These book-tax differences result in inconsistent characterization of distributions. Inconsistent characterizations can be particularly confusing to shareholders when Forms 1099 and Section 19(a) Notices are sent in close succession, as they are when a fund makes a single annual distribution in December. Complete consistency using “pure” tax numbers or “pure” book numbers, however, is not feasible. Ambiguities in the guidance for determining sources of distributions result in funds taking various approaches to calculating information for Section 19(a) Notices. As a consequence, shareholder confusion may arise not only from differences between a single fund’s Form 1099 and Section 19(a) Notice, but also from differences in how each fund calculates the sources of its distributions. By clarifying the standard that applies, the comparability of Section 19(a) Notices among funds will be enhanced, and shareholder confusion will be diminished. Under our proposal, Section 19(a) would be administered by applying “good accounting practices” that are neither pure book nor pure tax. These clarifications will preserve fully Section 19(a)’s objective of ensuring reporting of amounts that may not be recurring in nature without creating unnecessary inconsistencies between Section 19(a) Notices and IRS Forms 1099. Our approach, which was developed with extensive input from our members, is discussed in greater detail below. Determining Net Income. We recommend that net income be determined by reference to net investment income (a book concept). Net investment income is an appropriate measure for Section 19(a) purposes because it includes only amounts (e.g., interest and dividends) that are recurring in nature. While the amount that a fund distributes as net investment income will vary with changing interest rates and dividend practices, these variations are contemplated by Section 19(a). Distributions First from Net Income. We recommend generally treating a distribution as being paid first from, and to the extent of, undistributed net income for the current or preceding fiscal year. This will clarify uncertainty that currently arises, among other times, when the ROC- SOP is applied for Section 19(a) purposes. Specifically, concern has arisen that a Section 19(a) Notice may be required if a fund with ordinary losses for tax purposes (such as from certain foreign currency transactions) distributes its net investment income. For example, assume a fund distributes 10 cents per share, and the fund has net investment income from dividends of 10 cents per share and foreign currency losses of 2 cents per share. Some have questioned whether the ROC-SOP would require a fund to send a Section 19(a) Notice

reporting a 2 cent return of capital, even though the entire distribution is supported by net investment income. Our 14 Among other things, funds must report on IRS Form 1099 (by January 31 of the year following the year of distribution) the amount of the distribution that is treated as ordinary taxable (or tax-exempt) income, long-term capital gain and/or “nondividend distributions” (i.e., return of capital), all as calculated under the Code. Mr. Robert Plaze June 13, 2007 Page 7 of 10 recommendation will clarify that a Section 19(a) Notice is not required under these circumstances. There may be situations when a fund with undistributed income will nevertheless need to designate a distribution as being from a different source. For example, a fund that (1) has undistributed income for the current year and undistributed net capital gain realized during the preceding year and (2) wants to distribute the latter amount pursuant to Code Section 855 (which would enable it to deduct that distribution from the preceding year), would designate the distribution for Section 19(a) purposes as a capital gain distribution (i.e., the second category listed under Rule 19a-1(a)).

**Determining Other Taxable Income and Net Realized Gains.** We recommend that Rule 19a-1 be amended to clarify that all distributions supported by earnings and profits, as determined for federal income tax purposes, that are in excess of net investment income be reportable as other taxable income or capital gain (i.e., other taxable income or net realized gains from transactions in securities or other properties). This treatment will ensure that taxable distributions not out of net investment income are reported consistently – as taxable – in Section 19(a) Notices and Forms 1099. Items covered by this proposal will include all capital gains, both short-term and long-term, as well as foreign currency gains, passive foreign investment company (“PFIC”) mark-to-market income and other amounts required by the tax laws to be distributed to shareholders as taxable income.

**Determining Return of Capital.** We recommend that Rule 19a-1 be amended to clarify that return of capital be determined by reference to tax principles. The ROC-SOP applies this concept to investment company financial reporting and results in funds reporting a return of capital in their financial statements only when they have a tax return of capital. By applying tax principles to determine returns of capital, the ROC-SOP reduces potential shareholder confusion. Under the ROC-SOP, any distribution supported by a fund’s earnings and profits cannot be a return of capital. Thus, a shareholder will not receive a Section 19(a) Notice regarding a return of capital unless, as of the distribution date, the fund lacks earnings and profits to support the distribution.<sup>15</sup> We also recommend that funds be permitted to reasonably estimate earnings and profits for this purpose. This flexibility is critical because tax return of capital determinations are based on tax principles that are not, and cannot be, applied on a daily basis (e.g., wash sale and PFIC mark-to-market adjustments). This flexibility would not enable funds to avoid sending Section 19(a) Notices; instead, the flexibility merely will permit a fund to report a distribution as from net profits if the fund reasonably estimates that its earnings and profits support the distribution. This flexibility will be particularly important for funds that seek to distribute currently their taxable income. <sup>15</sup> The ROC-SOP provides: “Although book returns of capital may occur, they have little relevance to investment company shareholders. In contrast, tax returns of capital have a high degree of relevance and must be separately reported to shareholders for income-tax purposes. To report book returns of capital when such returns have not occurred for tax purposes would be confusing to shareholders.” Mr. Robert Plaze June 13, 2007 Page 8 of 10

**Revisions to Previously Reported Amounts.** We further recommend that Rule 19a-1(f) be amended to clarify that if a fund subsequently revises any amounts previously subject to Section 19(a) reporting, such revision will be done cumulatively and will be disclosed on the fund’s next regularly scheduled Section 19(a) Notice. To illustrate, assume a fund that determines after the first quarter dividend is paid that it did not have the earnings and profits that it reported on the Section 19(a) Notice. In the first quarter, the fund distributed 10 cents per share and sent a Section 19(a) Notice

reporting 6 cents of net investment income and 4 cents of realized gains. In the second quarter, the fund distributed 8 cents per share -- 5 cents from net investment income and 3 cents from realized gains. In calculating its second quarter dividend, the fund determined that only 2 cents of its first quarter distribution was from realized gains; the remaining 2 cents was return of capital. In this case, the Section 19(a) Notice for the second quarter would disclose on a cumulative year-to-date basis 11 cents of net investment income, 5 cents distribution from realized gains and a return of capital of 2 cents (i.e., 2 cents from the first quarter). No obligation would exist to send amended Section 19(a) Notices to any shareholder who had redeemed all shares in the fund between the mailing of these two Section 19(a) Notices. Sending them this information would serve no purpose. De Minimis Standard. We recommend that Rule 19a-1 be amended to provide that de minimis distributions of otherwise reportable amounts be excluded from the reporting obligations of Section 19(a). A distribution of otherwise reportable amounts will be deemed de minimis if the total amount of the distribution less the amount of net income does not exceed the greater of (i) ten percent of the total amount of the distribution (calculated as a percentage of the fund's cumulative year-to-date distributions) or (ii) one penny per share ("De Minimis Standard"). As noted earlier, Section 19(a) was enacted to prevent fund shareholders from receiving a false impression of a fund's expected return. When the portion of a distribution in excess of a fund's net income is small, the risk of misleading shareholders regarding fund performance is remote. Streamlining the notification requirements in this manner also has the benefit of reducing the compliance burden on funds and eliminating any costs associated with preparing Section 19(a) Notices.<sup>16</sup> The De Minimis Standard also will provide funds with flexibility when making distributions before the end of the period to which the distribution relates. For example, funds typically make their year-end distributions (of essentially all of their calendar-year income) well before December 31. Rule 19a-1 presently allows a fund to determine (or reasonably estimate) a dividend's source(s) "to the close of the period as of which it is paid" -- which would be December 31 in the example above.<sup>17</sup> The De Minimis Standard will provide additional comfort (and prevent subsequent reporting clarifications) if the fund's determination/estimate is not sufficiently precise. <sup>16</sup> The costs of sending Section 19(a) Notices will vary depending which delivery method the Commission requires (i.e., Internet posting, quarterly statements, Section 19(a) Notices with each distribution). <sup>17</sup> We recommend that the SEC clarify this point as part of its rulemaking initiative. Mr. Robert Plaze June 13, 2007 Page 9 of 10 Finally, the recommended De Minimis Standard is appropriate because the abundance of reporting required today under the tax and securities laws further reduces the likelihood that shareholders will misunderstand a fund's performance. All individual shareholders in taxable accounts receive IRS Forms 1099 reporting the tax character of their income. In addition, all open-end funds are required to report total return in their prospectuses calculated in accordance with a formula prescribed by the Commission. Open and closed-end funds report total return and the ratio of net investment income to average net assets in their annual and semi-annual shareholder reports. The net investment income ratio illustrates the portion of the fund's total return that is recurring in nature. Funds that advertise yield are required to calculate that yield under another Commission-mandated formula. This reporting enhances shareholder understanding of fund investment performance. None of this reporting occurred when Section 19(a) was enacted in 1940 or when Rule 19a-1 was adopted in 1941. Given the multiple layers of reporting required under the current system, shareholders will not be misled regarding fund performance by the absence of a Section 19(a) Notice for distributions meeting the De Minimis Standard. \* \*

\* Fund shareholders will be well served if Rule 19a-1 is revised as we have recommended. They will receive better, more consistent information regarding distribution sources, in a medium that is more easily accessible than the paper notices provided today. The

Commission will fulfill its duty to protect investors consistent with its overall commitment to use the Internet more effectively for the benefit of the investors. We look forward to discussing these proposals further at your earliest convenience. Please feel free to contact me at (202) 326-5826, Dorothy Donohue at (202) 218-3563, Keith Lawson at (202) 326-5832, or Greg Smith at (202) 326-5851 if you have any questions or would like additional information. Sincerely, /s/ Mary S. Podesta Mary S. Podesta Acting General Counsel Attachment cc: The Honorable Christopher Cox The Honorable Paul S. Atkins The Honorable Roel C. Campos The Honorable Annette L. Nazareth The Honorable Kathleen L. Casey Andrew J. Donohue, Director Division of Investment Management Mr. Robert Plaze June 13, 2007 Page 10 of 10 About the Investment Company Institute The Investment Company Institute is the national association of the U.S. investment company industry. More information about the Institute is available at the end of this letter. ICI members include 8,781 open-end investment companies (mutual funds), 665 closed-end investment companies, 428 exchange-traded funds, and 4 sponsors of unit investment trusts. Mutual fund members of the ICI have total assets of approximately \$10.917 trillion (representing 98 percent of all assets of US mutual funds); these funds serve approximately 93.9 million shareholders in more than 53.8 million households.

Rule 19a-1 -- Written statement regarding distribution payments by management companies (a) Every written statement made pursuant to section 19 of the Act by or on behalf of a management company regarding a payment of a dividend or other distribution shall clearly indicate what portion of the payment per share is made from the following sources: (1) Net income for the current or preceding fiscal year, or accumulated undistributed net income, or both. (2) Accumulated undistributed other taxable income and net realized gains from transactions in securities or other properties. (3) Non-taxable return of capital. (b) For the purpose of section 19(a) of the Act and this section: (1) "Net income" means net investment income as determined under generally accepted accounting principles. (2) "Accumulated undistributed other taxable income and net realized gains from transactions in securities or other properties" means the excess, if any, of amounts estimated to be supported by current or accumulated earnings and profits as determined for federal income tax purposes over net income. (3) "Transactions in securities or other properties" include, among others, (i) dispositions of securities or other properties, (ii) investments in derivative instruments (including options, futures, forward contracts, and notional principal contracts) based thereon or valued with reference thereto, and (iii) investments in indices comprised thereof. (4) "Non-taxable return of capital" means a distribution not supported by current or accumulated earnings and profits as determined for federal income tax purposes. (5) "Written statement" includes any transmittal of information necessary to comply with paragraph (i) or (j) of this section. (6) Unless the management company designates otherwise, a payment shall be treated as being made (i) first, from, and to the extent of, undistributed net income for the current or preceding fiscal year; (ii) second, as accumulated undistributed other taxable income and net realized gains from transactions in securities or other properties; and (iii) third, as a non-taxable return of capital. (c) If a payment is made in whole or in part from a source specified in subparagraph (a)(2) of this section, the written statement shall indicate, after giving effect to the part of such payment so specified, the excess, if any, of (1) the sum of the unrealized depreciation of portfolio securities plus the accumulated realized losses from transactions in securities or other properties, if any, over (2) the sum of the unrealized appreciation of portfolio securities plus the accumulated undistributed realized gains from such transactions, if any, all as of a date reasonably close to the end of the period for or during which the payment is made. Any statement made pursuant to the preceding sentence shall specify the amount, if any, of such excess that represents net unrealized depreciation of portfolio securities. (d) With respect to any payment of a distribution, accumulated undistributed net income and



accumulated undistributed other taxable income and net realized gains from transactions in securities or other properties shall be determined, at the option of the company, either (1) from the date of the organization of the company, (2) from the date of a reorganization, as defined in clause (A) or (B) of section 2(a)(33) of the Act (54 Stat. 790; 15 U.S.C. 80a-2(a)(33)), (3) from the date as of which a write-down of portfolio securities was made in connection with a corporate readjustment, approved by stockholders, of the type known as "quasi- reorganization," or (4) from January 1, 1925, to the close of the period as of which the dividend is paid, without giving effect to such payment. (e) For the purpose of this section, open-end companies that (1) upon the sale of their shares, allocate to undistributed net income, undistributed other taxable income and net realized gains, or other similar account that portion of the consideration received that represents the approximate per share amount of undistributed net income and undistributed net realized gains, respectively, if any, included in the sales price and (2) upon the purchase or redemption of their shares, make a corresponding deduction from such account, need not treat the amounts so allocated as non-taxable return of capital or the amounts so deducted as from non-taxable return of capital. (f) For the purpose of this section, the source or sources from which a payment is made shall be determined or reasonably estimated by including net income reasonably expected to be earned or accrued and other taxable income and net gains reasonably expected to be realized, and current earnings and profits for federal income tax purposes attributable to such income and gains, through the close of the period (month, quarter, year, or other) for or during which the payment is made. Such estimate shall be provided on a year-to-date basis in each written statement pursuant to Section 19(a). (g) Notwithstanding paragraph (a) of this section, no management company shall be required to make a written statement pursuant to section 19(a) of the Act with respect to a de minimis payment from the sources specified in paragraphs (a)(2) and (3) of this section. For the purpose of this paragraph, a de minimis payment means a payment (1) no more than 10% of which is attributable to the sources specified in paragraphs (a)(2) and (3) of this section, calculated as a percentage of the management company's year-to-date payments (including the current payment) or (2) no more than one cent per share of which is attributable to such sources. (h) Insofar as a written statement made pursuant to section 19(a) of the Act relates to a payment of a distribution on preferred stock for a period of less than a year, a company may elect to indicate only that portion of the payment that is made from sources specified in paragraph (a)(1) of this section and need not specify the sources from which the remainder was paid. Every company that in any fiscal year elects to make a statement pursuant to the preceding sentence shall transmit to the holders of such preferred stock, at a date reasonably near the end of the last distribution period in such fiscal year, a statement meeting the requirements of paragraph (a) of this section on an annual basis. (i) A management company shall post the information required to be included in a written statement made pursuant to Section 19(a) of the Act ("required information") within a reasonable period of time following a distribution on the management company's internet website or, if the management company does not have an internet website, the internet website of its adviser, sponsor, depositor, trustee, administrator, principal underwriter, or any affiliated person of the management company in accordance with this paragraph. (1) Prior to the initial posting, (i) a closed-end management company shall include a statement in a press release, and (ii) an open-end management company shall include a statement in its prospectus, that the required information will be posted on a specified internet website; (2) A management company that posts the required information on the designated website shall disclose in each report to stockholders distributed pursuant to Rule 30e-1 under the Act published subsequent to posting that the required information is available on a specified internet website; and each such open-end management company shall disclose in each prospectus published subsequent to posting that the required

information is posted on a specified internet website; and (3) A management company shall maintain on the designated internet website any required information for at least twenty-four months from the time of its posting. (j) A management company shall transmit the required information no less frequently than quarterly to beneficial owners of its common stock in an account statement, a written statement accompanying an account statement, a written statement mailed (including electronically) separately from an account statement, or the check stub for a distribution paid by check. A management company may disclose the source or sources of a distribution on an account statement calculated in a manner other than that provided for in this section provided that it transmits the required information on a check stub or on a written statement either with or separate from the account statement. (k) If a broker, dealer, bank, or other person ("financial intermediary") holds common stock issued by the management company in nominee name, or otherwise, on behalf of a beneficial owner, the management company must: (1) request that the financial intermediary, or its agent, forward the required information to all beneficial owners of the management company's shares; (2) provide, in a timely manner, to the financial intermediary, or its agent, enough copies of the required information assembled in the form and at the place that the financial intermediary, or its agent, reasonably requests to facilitate the financial intermediary's sending of the required information to each beneficial owner of the management company's shares; and (3) upon the request of any financial intermediary, or its agent, that receives copies of the required information, pay the financial intermediary, or its agent, the reasonable expenses of sending the required information to beneficial owners. (l) The purpose of this section, in the light of which it shall be construed, is to afford security holders adequate disclosure of the sources from which payments are made. Nothing in this section shall be construed to prohibit the inclusion of additional information in explanation of the information required by this section. Nothing in this section shall be construed to permit a payment in violation of any State law or to prevent compliance with any requirement of State law regarding dividends consistent with this section.

**Rule 14b-1 - Obligation of Brokers and Dealers in Connection With the Prompt Forwarding of Certain Communications to Beneficial Owners**

(f) **Delivery of Information Required under Rule 19a-1 of the Investment Company Act.** A broker or dealer, or agent thereof, shall, upon a registrant's request, indicate the number of its customers who are beneficial owners of the company's securities and shall forward required information under Rule 19a-1 under the Investment Company Act to beneficial owners.

**Rule 14b-2 -- Obligation of Banks, Associations, and Other Entities that Exercise Fiduciary Powers in Connection With the Prompt Forwarding of Certain Communications to Beneficial Owners**

(f) **Delivery of Information Required under Rule 19a-1 of the Investment Company Act.** A bank shall, upon a registrant's request, indicate the number of its customers who are beneficial owners of the company's securities and shall forward required information under Rule 19a-1 under the Investment Company Act to beneficial owners.

**Rule 19a-1 -- Written statement to accompany dividend regarding distribution payments by management companies**

(a) Every written statement made pursuant to section 19 of the Act by or on behalf of a management company shall be made on regarding a separate paper and payment of a dividend or other distribution shall clearly indicate what portion of the payment per share is made from the following sources: (1) Net income for the current or preceding fiscal year, or accumulated undistributed net income, or both, not including in either case profits or losses from the sale of securities or other properties. (2) Accumulated undistributed other taxable income and net realized gains from transactions in securities or other properties. (3) Non-taxable return of capital. (b) For the purpose of section 19(a) of the Act and this section: (1) "Net income" means net investment income as determined under generally accepted accounting principles. (1) "Accumulated undistributed other taxable income and net profits realized gains from the sale of transactions in securities or

other properties (except that an open-end company may treat as a separate source its net profits from such sales during its" means the excess, if any, of amounts estimated to be supported by current fiscal year) or accumulated earnings and profits as determined for federal income tax purposes over net income. (2) Paid-in surplus"Transactions in securities or other capital source properties" include, among others, (i) dispositions of securities or other properties, (ii) investments in derivative instruments (including options, futures, forward contracts, and notional principal contracts) based thereon or valued with reference thereto, and (iii) investments in indices comprised thereof. To the extent that a payment is properly designated as being made from a source specified in (3) "Non-taxable return of capital" means a distribution not supported by current or accumulated earnings and profits as determined for federal income tax purposes. (4) "Written statement" includes any transmittal of information necessary to comply with paragraph (a)(1) or (2) of i) or (j) of this section, it need not be designated as having been made from a source specified in this paragraph.. (5) Unless the management company designates otherwise, a payment shall be treated as being made (i) first, from, and to the extent of, undistributed net income for the current or preceding fiscal year; (ii) second, as accumulated undistributed other taxable income and net realized gains from transactions in securities or other properties; and (iii) third, as a non-taxable return of capital. (c) (b) If the payment is made in whole or in part from a source specified in paragraph subparagraph (a)(2) of this section, the written statement shall indicate, after giving effect to the part of such payment so specified, the deficit excess, if any, in the aggregate of (1) the sum of the unrealized depreciation of portfolio securities plus the accumulated undistributed realized profits less losses on the sale of from transactions in securities or other properties and, if any, over (2) the net sum of the unrealized appreciation or depreciation of portfolio securities plus the accumulated undistributed realized gains from such transactions, if any, all as of a date reasonably close to the end of the period as of or during which the dividend payment is paid made. Any statement made pursuant to the preceding sentence shall specify the amount, if any, of such deficit excess which that represents net unrealized depreciation of portfolio securities. (c) Accumulated undistributed net income and d) With respect to any payment of a distribution, accumulated undistributed net profits income and accumulated undistributed other taxable income and net realized gains from the sale of transactions in securities or other properties shall be determined, at the option of the company, either (1) from the date of the organization of the company, (2) from the date of a reorganization, as defined in clause (A) or (B) of section 2(a)(33) of the Act (54 Stat. 790; 15 U.S.C. 80a-2(a)(33)), (3) from the date as of which a write-down of portfolio securities was made in connection with a corporate readjustment, approved by stockholders, of the type known as "quasi-reorganization," or (4) from January 1, 1925, to the close of the period as of which the dividend is paid, without giving effect to such payment. (de) For the purpose of this section, open-end companies which that (1) upon the sale of their shares, allocate to undistributed net income, undistributed other taxable income and net realized gains, or other similar account that portion of the consideration received which that represents the approximate per share amount of undistributed net income and undistributed net realized gains, respectively, if any, included in the sales price, and (2) upon the purchase or redemption of their shares, make a corresponding deduction from undistributed net income upon the purchase or redemption of shares such account, need not treat the amounts so allocated as paid non-in surplus or other taxable return of capital source or the amounts so deducted as from non-taxable return of capital. (ef) For the purpose of this section, the source or sources from which a dividend payment is paid made shall be determined (or reasonably estimated) by including net income reasonably expected to be earned or accrued and other taxable income and net gains reasonably expected to be realized, and current earnings and profits for federal income tax purposes attributable to such income and gains, through the

close of the period as of (month, quarter, year, or other) for or during which it is paid without giving effect to such the payment is made. If any such Such estimate is subsequently ascertained to shall be inaccurate provided on a year-to-date basis in each written statement pursuant to Section 19(a) (a significant amount, a correction thereof shall be made by). (g) Notwithstanding paragraph (a) of this section, no management company shall be required to make a written statement pursuant to section 19(a) of the Act or with respect to a de minimis payment from the sources specified in the first report to stockholders following discovery paragraphs (a)(2) and (3) of the inaccuracy. this section. For the purpose of this paragraph, a de minimis payment means a payment (1) no more than 10% of which is attributable to the sources specified in paragraphs (a)(2) and (3) of this section, calculated as a percentage of the management company's year-to-date payments (including the current payment) or (2) no more than one cent per share of which is attributable to such sources. (fh) Insofar as a written statement made pursuant to section 19(a) of the Act relates to a dividend payment of a distribution on preferred stock paid for a period of less than a year, a company may elect to indicate only that portion of the payment which that is made from sources specified in paragraph (a)(1) of this section, and need not specify the sources from which the remainder was paid. Every company which that in any fiscal year elects to make a statement pursuant to the preceding sentence shall transmit to the holders of such preferred stock, at a date reasonably near the end of the last dividend distribution period in such fiscal year, a statement meeting the requirements of paragraph (a) of this section on an annual basis. (i) A management company shall post the information required to be included in a written statement made pursuant to Section 19(a) of the Act ("required information") within a reasonable period of time following a distribution on the management company's internet website or, if the management company does not have an internet website, the internet website of its adviser, sponsor, depositor, trustee, administrator, principal underwriter, or any affiliated person of the management company in accordance with this paragraph. (1) Prior to the initial posting, (i) a closed-end management company shall include a statement in a press release, and (ii) an open-end management company shall include a statement in its prospectus, that the required information will be posted on a specified internet website; (2) A management company that posts the required information on the designated website shall disclose in each report to stockholders distributed pursuant to Rule 30e-1 under the Act published subsequent to posting that the required information is available on a specified internet website; and each such open-end management company shall disclose in each prospectus published subsequent to posting that the required information is posted on a specified internet website; and (3) A management company shall maintain on the designated internet website any required information for at least twenty-four months from the time of its posting. (j) A management company shall transmit the required information no less frequently than quarterly to beneficial owners of its common stock in an account statement, a written statement accompanying an account statement, a written statement mailed (including electronically) separately from an account statement, or the check stub for a distribution paid by check. A management company may disclose the source or sources of a distribution on an account statement calculated in a manner other than that provided for in this section provided that it transmits the required information on a check stub or on a written statement either with or separate from the account statement. (k) If a broker, dealer, bank, or other person ("financial intermediary") holds common stock issued by the management company in nominee name, or otherwise, on behalf of a beneficial owner, the management company must: (1) request that the financial intermediary, or its agent, forward the required information to all beneficial owners of the management company's shares; (2) provide, in a timely manner, to the financial intermediary, or its agent, enough copies of the required information assembled in the form and at the place that the financial

intermediary, or its agent, reasonably requests to facilitate the financial intermediary's sending of the required information to each beneficial owner of the management company's shares; and (3) upon the request of any financial intermediary, or its agent, that receives copies of the required information, pay the financial intermediary, or its agent, the reasonable expenses of sending the required information to beneficial owners. (gl) The purpose of this section, in the light of which it shall be construed, is to afford security holders adequate disclosure of the sources from which dividend payments are made. Nothing in this section shall be construed to prohibit the inclusion in any written statement of additional information in explanation of the information required by this section. Nothing in this section shall be construed to permit a dividend payment in violation of any State law or to prevent compliance with any requirement of State law regarding dividends consistent with this rule section. Rule 14b-1 - Obligation of Brokers and Dealers in Connection With the Prompt Forwarding of Certain Communications to Beneficial Owners (f) Delivery of Information Required under Rule 19a-1 of the Investment Company Act. A broker or dealer, or agent thereof, shall, upon a registrant's request, indicate the number of its customers who are beneficial owners of the company's securities and shall forward required information under Rule 19a-1 under the Investment Company Act to beneficial owners. Rule 14b-2 -- Obligation of Banks, Associations, and Other Entities that Exercise Fiduciary Powers in Connection With the Prompt Forwarding of Certain Communications to Beneficial Owners (f) Delivery of Information Required under Rule 19a-1 of the Investment Company Act. A bank shall, upon a registrant's request, indicate the number of its customers who are beneficial owners of the company's securities and shall forward required information under Rule 19a-1 under the Investment Company Act to beneficial owners.

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