

COMMENT LETTER

January 18, 2012

ICI Letter to Bombay Stock Exchange on Data Provided to Indian Tax Authority (pdf)

By Electronic Delivery January 18, 2012 Mr. Madhu Kannan Managing Director & Chief Executive Officer Bombay Stock Exchange, Limited Phiroze Jeejeebhoy Towers Dalal Street Mumbai- 400001 India RE: Transactional Data Provided to Indian Tax Authority Dear Mr. Kannan: The Investment Company Institute (“ICI”)¹ and ICI Global² respectfully request that the Bombay Stock Exchange (“BSE”) provide foreign investment fund transactional data to the Indian tax authority based upon settlement date, rather than trade date, information. This procedural change will alleviate substantial, unnecessary disputes with the Indian tax authority that cannot be resolved without extensive and expensive reconciliation efforts. We understand that the Indian tax authority periodically obtains data on transactions entered into by foreign investment funds, registered as either foreign institutional investors (“FIIs”) or subaccounts on the BSE, through a data extract. The transactional data provided by this extract includes trade date, trade time, scrip code, scrip name, trade number, trade value, trade quantity, order number, broker code, and client code. The tax authority uses this data to validate investment income reported by the funds on their Indian tax returns. The tax disputes arise whenever the Indian tax authority cannot reconcile the BSE’s trade date data with the corresponding tax return information. These reconciliation difficulties have resulted in

¹ The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (“ETFs”), and unit investment trusts (“UITs”). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$12.47 trillion and serve over 90 million shareholders.

² ICI Global is the global association of regulated funds publicly offered to investors in leading jurisdictions worldwide. ICIG seeks to advance the common interests and promote public understanding of global investment funds, their managers, and investors. Members of ICIG manage total assets in excess of US \$1 trillion.

ICI Letter on Transactional Data Provided to Indian Tax Authority January 18, 2012 Page 2 of 2 many funds being charged with underreporting their Indian investment income. While some funds have demonstrated successfully that all transactions have been reported correctly, the appeals process is lengthy and expensive. The Indian tax authority’s reconciliation difficulties arise because the trade date data provided by the BSE often is incomplete or inaccurate. The data deficiencies are attributable to various factors. One such factor arises from the exchange’s procedure, which we support, permitting broker participants to enter a single Permanent Account Number (“PAN”) client code for an order, even if the order is for

several funds belonging to the same client group (or for a fund other than the one for which the PAN is provided). This procedural simplification nevertheless causes substantial tax reconciliation confusion because the BSE trade data provides no discernible way to allocate trades among the various funds (FIs and/or subaccounts.) A second factor is that, even when the trade data purports to identify the transacting fund, the wrong PAN may be entered. These reconciliation difficulties would be addressed by providing the Indian tax authority with trade data based upon settlement date information. By settlement date, any trades for which the simplified trade date reporting procedure was utilized will be allocated correctly to the appropriate fund(s) based on instructions received from the respective individual FIs or subaccounts. Moreover, any errors made in providing the correct PAN for a single trade should have been detected by the fund or its custodian since custodians must confirm transactions prior to settlement date (so that payment and/or securities can be paid into the clearinghouse). Our proposal to provide the Indian tax authority with settlement date data would simplify greatly the authority's tax return reconciliation effort. Funds also would benefit from avoiding the cost of appealing deficiency orders based on incomplete and inaccurate information. The National Stock Exchange of India ("NSE") already provides transaction data to the Indian tax authority based upon settled trades. Because settlement date data can be reconciled easily with tax return information, the problems created by the BSE's trade date reporting practice have not arisen for foreign investment funds trading on the NSE. Consequently, we urge the BSE to adopt our proposal and conform its reporting practices to those of the NSE. We greatly appreciate your consideration of our request. If there is any additional information that we can provide, please contact my colleague Pinank Desai (at pinank.desai@ici.org or 001-202- 326-5876) or me (at lawson@ici.org or 001-202-326-5832). Sincerely, Keith Lawson Senior Counsel - Tax Law