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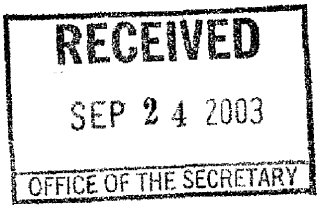
September 23, 2003

Via E-mail: rule-comments@sec.gov



Mr. Jonathan G. Katz,
Secretary,
Securities and Exchange Commission,
450 Fifth Street, N.W.,
Washington, D.C. 20549-0609.

Re: New York Stock Exchange ("**NYSE**") Corporate Governance Rule Proposal 303A(7)(e) – File No. SR-NYSE-2002-33

Dear Mr. Katz:

We are submitting this letter of comment on the application to listed closed-end investment companies of proposed **NYSE** Rule 303A(7)(e), requiring an internal audit function.

While we fully support and appreciate the importance of **an** internal audit function for other types of listed companies, we believe that such **a** requirement should not apply to listed closed-end investment companies due to their unique structure. Closed-end investment companies generally have **no** employees and instead contract out all of their functions. **A** requirement that such a company have **an** internal audit function would necessarily **fall** to the investment adviser's (or another service provider's) internal auditing department.

We believe that this is a problematic requirement for investment companies and believe **that** it is unnecessary in light of the typical organizational structure, business and financial statements of investment companies, as **explained** below.

Typically, investment companies have not included internal audit services in their advisory or other contracts because the financial reporting function for investment companies is much simpler than that of industrial companies. For example, investment companies have no subsidiaries. Investment companies have only a single line of business and their assets are valued on a mark-to-market basis. They have no employees

and no employee benefit plans. Assets are held in the custody of banks and broker-dealers and are generally subject to contractual limitations and prohibitions on unauthorized payments or deliveries. If investment companies satisfy IRS requirements for income distribution and asset diversification, they **pay** no income **taxes** and require no income tax provision and no deferred tax items. Investment companies are also required to file annually with the SEC an auditors' report on internal accounting controls. Thus, the internal audit function is not needed by investment companies.

The investment adviser's internal auditing department's primary focus is on the investment adviser's own **risk** management processes and its own financial reporting and internal accounting controls, and not those of the closed-end investment company. The structure, staffing and training of the investment adviser's internal auditing department would have to be substantially changed in order to address investment company financial reporting. For **example,** investment companies must utilize mark-to-market accounting for their financial statements, which would not generally be the case for the investment adviser and its parent. Thus, the accounting issues for investment companies will be different than those of the investment adviser and its parent. Also, the financial reporting function of an investment company is spread among several service providers, such as the investment adviser, the administrator and the custodian. Therefore, an internal audit department for any one of these entities would not have the authority to conduct work internally within the other entities. **As** a practical matter, these structural aspects of investment company operations would make creation of an internal audit function extremely difficult and of questionable effectiveness. In addition, **because** the investment adviser's internal auditing department would be composed of employees of the investment adviser, who report directly to the investment adviser, the closed-end investment company and its audit committee will have difficulty obtaining necessary authority and control effectively to manage the internal audit function.

Finally, creating an internal audit function within **an** investment company itself would be extremely costly and, in any event, unlikely to overcome the difficulties of conducting an internal audit within the investment company's service procedures. In any event, requiring that the investment company create **an** internal audit function through its investment adviser or another service provider will require payment by the investment company to the adviser or service provider to **provide** the function and the negotiation of arrangements with all service providers to enable the internal audit function to be carried out. This will increase expenses borne by the investment company's shareholders with only the uncertain prospect that the function could be carried out. We believe it is inadvisable for the **NYSE** to require investment companies to increase expenses to pay for an internal audit function that is not needed, will be difficult for service providers to provide and will be of questionable benefit.

We appreciate this opportunity to comment on proposed rule 303A(7)(e) and its application to listed closed-end investment companies, and would be happy to discuss any questions that you may have with respect to this letter. Questions may be directed to John T. Bostelman (212-558-3840) or F. Stewart McQueen (212-558-7103) in our New York office.

Very truly yours,

Sullivan & Cromwell LLP

cc: Paul F. Roye, Director

Susan Nash, Associate Director,
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(New York Stock Exchange)