

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act²⁰, that Amendment No. 1 is approved on an accelerated basis, and that the portions of the proposed rule change and Amendment No. 2 (File No. SR-CSE-2003-06) relating to Sections 1 and 3 of Article IV of the Exchange's By-Laws be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48833; File No. SR-NYSE-2003-33]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Relating to Exchange Fees for Closed-End Funds

November 25, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 20, 2003, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. On November 24, 2003, the NYSE filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The New York Stock Exchange, Inc. (the "Exchange" or the "NYSE") proposes to amend Section 902.02 of the Listed Company Manual (the "Manual") to amend the continued listing fees applicable to closed-end funds. The text

of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

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Listed Company Manual

902.00 Listing Fees

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902.02 Schedule of Current Listing Fees

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C. Continuing Annual Fee

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The continuing annual fees for closed end funds are as follows:

[Per Share Rates—

1st and 2nd million shares	\$1,650
Additional shares	830
Minimum Fees—	
Million Shares	
1+—10	\$25,000
10+—50	35,000
50+—100	48,410
100+—200	64,580
200+	80,440]

[All issued shares are included in the continuing annual fee calculation for closed end funds, except those which have been subject to a continuing annual fee for a consecutive period of 15 years. After 15 years, such shares are excluded in the calculation of fees on the per share basis.] *Closed end funds will pay at a rate of \$930 per million shares, subject to a minimum annual fee of \$25,000.* Fund families with between [5] 3 and [15] 14 closed-end funds listed will receive a 5% discount off the calculated continuing annual fee for each fund listed, and those with [16 or] more *than* 14 listed closed-end funds will receive a discount of [10] 15%. No fund family shall pay aggregate continuing annual fees in excess of \$1 million in any one year.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has recently reduced the original listing fees applicable to closed-end funds,⁴ and has capped at \$75,000 the original listing fees applicable to two or more funds from the same fund family listing on the same date.⁵

The Exchange is now proposing to amend the continuing annual listing fees applicable to closed-end funds by establishing a new continuing fee structure with increased fund family discounts, and a new per million share base rate applicable to all closed-end funds.

In establishing a new base rate applicable to all closed-end funds, the Exchange will no longer apply the existing five-tiered continued listing fee structure and, instead, closed-end funds will pay at a rate of \$930 per million shares, subject to a minimum annual fee of \$25,000. To clarify the applicability of the \$25,000 minimum, that amount would actually cover funds with up to 26,881,720 shares outstanding. It is only beyond that size that the multiplication of the per share rate (\$930/million) by the shares outstanding would produce a fee in excess of the \$25,000 minimum.

The Exchange also proposes to increase and expand the availability of the discounts applicable to fund families with multiple funds listed. As proposed, fund families with between 3 and 14 closed-end funds listed will receive a 5% discount off the calculated continuing annual fee for each fund listed, and those with more than 14 listed closed-end funds will receive a discount of 15%. Currently, fund families with between 5 and 15 closed-end funds listed receive a 5% discount off the calculated continuing annual fee for each fund listed, and those with 16 or more listed closed-end funds receive a discount of 10%.

In a previous filing revising listing fees generally,⁶ the Exchange eliminated the fee policy under which shares subject to continuing annual fees for a period of 15 consecutive years became exempt from further fees. At the time, the Exchange noted that it was

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Darla Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated November 24, 2003 ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 48360 (August 18, 2003), 68 FR 51045 (August 25, 2003) (SR-NYSE-2003-22).

⁵ See Securities Exchange Act Release No. 48685 (October 23, 2003), 68 FR 61710 (October 29, 2003) (SR-NYSE-2003-32).

⁶ See Securities Exchange Act Release No. 47115 (December 31, 2002), 68 FR 1495 (January 10, 2003) (SR-NYSE-2002-62).