

July 29, 2024

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

rule-comments@sec.gov

RE: SR-NYSE-2024-35
NYSE proposed rule change to exempt closed-end funds from the requirement to hold annual shareholder meetings.

Dear Ms. Countryman:

Sit Investment Associates, Inc. and Sit Fixed Income Advisors II, LLC (“Sit” or “we” or “our”) are each registered as an investment adviser with the Securities and Exchange Commission (the “SEC”) under the Investment Advisers Act of 1940, as amended and act pursuant to investment management agreements as the discretionary investment manager to certain clients who are shareholders of closed-end funds (“CEFs”). Sit has been investing in CEFs on behalf of its clients for more than 25 years. Sit’s clients include individuals and institutions, such as foundations, pension funds, insurance companies, and corporations. Our investment approach to CEFs is long-term orientated with an emphasis on the income component of total return.

We are writing to ask that the SEC reject the New York Stock Exchange LLC’s (“NYSE”) proposal to amend Section 302.00 of the NYSE Listed Company Manual (“Manual”) which would exempt CEFs listed for trading on NYSE from holding an annual shareholder meeting. We believe the proposed rule change will harm investors in CEFs and serves no purpose other than to enrich the large asset management firms that manage CEFs.

I. The mechanism by which shares of CEFs are sold is fundamentally different than that of exchange traded funds and open-end funds and justifies the requirement to hold an annual meeting.

The NYSE’s statement of the purpose for the proposed rule change is set forth in the Form 19b-4 filed by NYSE with the SEC on June 21, 2024. The statement of the purpose notes that CEFs are a category of investment companies that are registered under the Investment Company Act of 1940 (“1940 Act”) and describes certain provisions of the 1940 Act which apply to CEFs. The NYSE’s statement of the purpose states: “The Exchange notes that there are significant differences between CEFs and listed operating companies that justify exempting CEFs from the Exchange’s annual meeting requirement. In particular, the Exchange notes that the 1940 Act includes specific requirements with respect to the election of directors by CEF shareholders, while there is no such requirement under federal law for listed operating companies.” And further states “In light of the above-described significant statutory protections under the 1940 Act provided to the shareholders of CEFs, for which there are no parallel legal protections for the shareholders of public operating companies, the Exchange believes that it is appropriate to exempt CEFs from the annual shareholder meeting requirements of Section 302.00 of the Manual.”

The NYSE’s contention that the protections under the 1940 Act provided to the shareholders of CEFs are sufficient to exempt CEFs from the annual shareholder meeting requirements of Section 302.00

fails to acknowledge and consider the most significant and fundamental difference between CEFs and the other categories of investment companies. Specifically, CEFs raise capital in a public offering and investors purchase and sell CEF shares on an exchange. Shares on the exchange trade at a market price which is different from the CEF's net asset value ("NAV"). Shares usually trade at a discount to the CEF's NAV. A CEF's capital structure is closed. Open-end investment companies ("Mutual Fund") issue new shares at the fund's NAV when investors purchase shares and redeem shares at the fund's NAV when investors sell shares. Exchange traded funds ("ETFs) have a redemption and creation feature which ensures the ETF share price does not deviate significantly from the fund's NAV. These distinctions justify the requirement for an annual meeting for CEFs.

The CEF annual shareholder meeting to elect directors and influence fund policy is a critical operating control that provides CEF shareholders a role in ensuring the CEF is managed in a manner that controls the level of discount at which the CEF shares trade. CEFs trade at larger discounts when annual meetings are not held.

II. The annual meeting requirement creates demand for CEF shares from institutional investors that increases liquidity and provides a floor for the price discount relative to NAV.

As a CEF's price discount relative to NAV increases, sophisticated institutional investors enter the market and increase the demand for shares of a CEF. This demand provides a vital role in the CEF marketplace as it essentially creates a floor price discount at which liquidity is provided to all shareholders. Institutional investors' ability and willingness to purchase shares of CEFs at a discount to the NAV increases the efficiency of the CEF market by constraining the CEFs NAV price discount.

A CEF's price discount to NAV is caused by many factors that can be influenced by the participation of shareholders at an annual meeting, including for example, poor investment performance by the CEF's manager, corporate governance policies, dividend policies, and market influences on the CEF's underlying asset class. Annual shareholder meetings provide an opportunity for shareholders to make proposals to management and directors that address such matters as warranted, and therefore enhance shareholder value. Without the ability to regularly make shareholder proposals, institutional investors will unlikely be willing to take large positions in CEFs and provide liquidity benefits to all shareholders. Without an annual meeting CEF sponsors will become more entrenched and have no incentive to enact policies that manage a CEF's NAV discount and otherwise support trading of CEFs shares, resulting in increased harm to investors as the price discount to NAV increases.

To illustrate this effect, we ask that you consider a CEF that is not listed on the NYSE and does not hold regular annual meetings such as Bexil Investment Trust ("BXSX"). The price discount to NAV for BXSX is currently 36.4%, whereas the average price discount for the universe of 407 CEFs that we follow is only 6.3%. If all such CEFs were to have their price discounts increase to 30%, investors would suffer an aggregate loss of \$55 billion.

III. Removal of the annual meeting requirement essentially eliminates shareholders' ability to replace poorly performing investment managers and board members.

The 1940 Act only requires CEFs to hold a shareholder meeting if certain limited conditions are met, which are infrequent and generally concern approving management actions. These conditions are discussed in the proposed rule amendment and are the basis on which the NYSE justifies the exemption from the annual meeting requirement. However, due to the different manner in which shares of CEFs are purchased and sold compared to Mutual Funds and ETFs, the protections in the 1940 Act providing for infrequent shareholder meetings do not go far enough and are inadequate to protect CEF shareholders. Removing the protections afforded by the NYSE annual meeting requirement will harm investors and essentially eliminate or severely limit their ability to address issues timely, such as to replace board members and investment managers that perform poorly. The timing of a shareholder meeting required by the 1940 Act likely does not coincide with the timing that is required to address operational issues on a regular basis. Without a required annual meeting, if a CEF's shares are trading at a significant

discount to NAV, a shareholder will have no ability to influence policies and vote on matters to address the issues until a shareholder meeting required by the 1940 Act is otherwise held which may be years later.

IV. The proposed rule change benefits CEF sponsors to the detriment of shareholders.

The proposed rule change to eliminate the requirement of an annual shareholder meeting will allow poorly performing board members and investment managers to remain in place potentially for several years without input from shareholders. Because of the fixed capital base, CEF sponsors would be able to maintain stable fee revenues despite their poor performance. Exempting CEFs from the annual meeting requirement will protect the fees earned by CEF sponsors by eliminating the rights of shareholders to influence the control of their investment. Without the checks and balances provided by annual shareholder meetings, CEF sponsors could operate without scrutiny of the funds' shareholders without risk of loss of revenue.

V. The proposed rule change is inconsistent with the SEC's three-part mission.

The mission of the SEC is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. Exempting CEFs from the requirement to hold an annual meeting directly frustrates each part of the SEC's mission:

Protect Investors: CEF investors are subject to the dynamics of supply and demand of the securities market and may not find sufficient liquidity to exit their investment. Without sufficient liquidity, investors may not be able to sell the shares at a price near the CEFs NAV. With their assets essentially 'stuck' in the CEF, investors are subject to the investment returns, policies, and corporate governance of the investment manager and fund sponsor. The annual meeting requirement gives shareholders an opportunity, on a regular basis, to replace poor performing board members or investment managers. Removing the annual meeting requirement will strip rights already afforded to shareholders while also further reducing the liquidity for their shares, which is likely to result in meaningful financial losses for investors.

Maintain fair, orderly, and efficient markets: Exempting CEFs from the requirement to hold an annual meeting will significantly reduce the liquidity for shares of CEFs in the secondary market and likely result in the price discounts relative to the NAV to increase.

Facilitate capital formation: The decreased liquidity, wider price discounts relative to NAV for existing CEFs, and elimination of shareholder rights that will result from the proposed rule amendment will likely result in a reduced willingness by investors to invest in new CEFs. CEFs fill an important need in the securities market by providing investors access to securities that otherwise are not available to investors directly.

VI. Conclusion

We appreciate your attention to this important matter and ask that you reject the NYSE's proposed rule amendment to exempt CEFs from holding annual shareholder meetings. Stripping this right from shareholders will cause harm through reduced liquidity, increased price discounts to NAV, and less input on corporate governance. The benefits of the proposed rule accrue solely to CEF sponsors as silencing the voices of CEF shareholders entrenches board members, investment managers, and fees.

Sincerely,

Bryce A. Doty
Senior Portfolio Manager