

assets of the Acquired Fund will be transferred to the Acquiring Fund.

4. Each Fund's board of trustees ("Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, approved the Reorganization and concluded that the Reorganization was in the best interest of the respective Fund. In approving the Reorganization, each Board considered the Wells Fargo Position. To effect the Reorganization, a shareholder meeting of the Acquired Fund's shareholders will be held on or about January 31, 2002. A proxy statement soliciting shareholder approval, which discussed the Wells Fargo Position, was mailed in November, 2001.

#### Applicants' Legal Analysis

1. Section 12(d)(3) of the Act, in relevant part, prohibits a registered investment company from purchasing or otherwise acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting. Rule 12d3-1 under the Act exempts certain transactions from the prohibitions of section 12(d)(3) if specified conditions are met. Rule 12d3-1(c) provides that the exemption provided by the rule is not available when the issuer of the securities is the investment company's investment adviser, promoter, or principal underwriter, or an affiliated person thereof.

2. Applicants state that because Wells Fargo is an affiliated person of WFFM, the Acquiring Fund's investment adviser, the Transfer and the Acquiring Fund's continued holding of the Wells Fargo Position would not meet the conditions of rule 12d3-1(c).<sup>1</sup> Applicants request relief from section 12(d)(3) to permit the Acquiring Fund to effect the Transfer and the continued holding for up to two years of the Wells Fargo Position following the Reorganization in order to permit the Acquiring Fund to effect its orderly liquidation.

3. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act to the extent that the 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 Act. Applicants state that the requested relief meets this standard.

4. Applicants state that the relief is warranted because none of the abuses

that section 12(d)(3) was intended to prevent are present in the instant situation and the two-year disposition period will permit the Acquiring Fund to maximize the realization of gain on the orderly sale of the Wells Fargo Position while minimizing the tax effects of the disposition. Applicants also state that the Acquired Fund obtained the Wells Fargo Position in compliance with the Act and the rules thereunder.

#### Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will seek to liquidate the Wells Fargo Position as soon as possible, consistent with the maximization of shareholder return and the best interests of the Acquiring Fund, and in any case, within two years of the date of the Reorganization.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**  
*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

##### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 28, 2002: a closed meeting will be held on Tuesday, January 29, 2002, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matters of the closed meeting scheduled for Tuesday, January 22, 2002, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: January 22, 2002.

**Jill M. Peterson,**  
*Assistant Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-8056; 34-45321; FR-61]

##### Commission Statement About Management's Discussion and Analysis of Financial Condition and Results of Operations

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Commission statement.

**SUMMARY:** The Commission today is issuing a statement regarding Management's Discussion and Analysis of Financial Condition and Results of Operations. The release sets forth certain views of the Commission regarding disclosure that should be considered by registrants. Disclosure matters addressed by the release are liquidity and capital resources including off-balance sheet arrangements; certain trading activities that include non-exchange traded contracts accounted for at fair value; and effects of transactions with related and certain other parties.

**FOR FURTHER INFORMATION CONTACT:** Questions about this statement should be referred to Jackson Day or Robert Bayless, Office of the Chief Accountant (202 942-4400) or Paula Dubberly, Division of Corporation Finance (202 942-2900), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1103.

##### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 31, 2001, the Commission received a petition from the accounting firms of Arthur Andersen LLP, Deloitte and Touche LLP, Ernst & Young LLP, KPMG LLP, and PricewaterhouseCoopers LLP.<sup>1</sup> The petition, which was endorsed by the

<sup>1</sup> See Investment Company Act Release No. 3542. (Sep. 21, 1962).

<sup>1</sup> The petition is posted on the Commission's web page ([www.sec.gov](http://www.sec.gov)) under Regulatory Actions, Petitions for Rulemaking.