EATON VANCE MANAGEMENT
Form 40-APP/A
January 09, 2009

Securities and Exchange Commission
Washington, DC 20549

In the Matter of the Application of:
Eaton Vance Enhanced Equity Income Fund
Eaton Vance Enhanced Equity Income Fund II
Eaton Vance Risk-Managed Diversified Equity Income Fund
Eaton Vance Tax-Managed Buy-Write Income Fund
Eaton Vance Tax-Managed Buy-Write Opportunities Fund
Eaton Vance Tax-Managed Diversified Equity Income Fund
Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund
Eaton Vance Tax-Managed Global Diversified Equity Income Fund
Eaton Vance Management

File No. 812-13586

AMENDMENT NO. 1 AMENDING AND RESTATING AN APPLICATION FOR AN ORDER PURSUANT TO SECTION 6(c) OF THE INVESTMENT COMPANY ACT OF 1940 FOR EXEMPTIONS FROM SECTION 19(b) OF THE ACT AND RULE 19b-1 THEREUNDER

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UNITED STATES OF AMERICA

BEFORE THE

SECURITIES AND EXCHANGE COMMISSION

In the Matter of	) AMENDMENT NO. 1 AMENDING
	) AND RESTATING AN APPLICATION
	) PURSUANT TO SECTION 6(c) OF THE
EATON VANCE ENHANCED EQUITY INCOME FUND	) INVESTMENT COMPANY ACT OF 1940
EATON VANCE ENHANCED EQUITY INCOME FUND II	) FOR AN ORDEROF EXEMPTIONFROM
EATON VANCE RISK-MANAGED DIVERSIFIED EQUITY	) SECTION 19(b) OF THE ACT AND RULE
INCOME FUND	) 19B-1 THEREUNDER
EATON VANCE TAX-MANAGED BUY-WRITE INCOME FUND	)
EATON VANCE TAX-MANAGED BUY-WRITE	)
OPPORTUNITIES FUND	)
EATON VANCE TAX-MANAGED DIVERSIFIED EQUITY	)
INCOME FUND	)
EATON VANCE TAX-MANAGED GLOBAL BUY-WRITE	)
OPPORTUNITIES FUND	)
EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED	)
EQUITY INCOME FUND	)
EATON VANCE MANAGEMENT	)
	)
File No. 812-13586	)

Eaton Vance Enhanced Equity Income Fund, Eaton Vance Enhanced Equity Income Fund II, Eaton Vance Risk-Managed Diversified Equity Income Fund, Eaton Vance Tax-Managed Buy-Write Income Fund, Eaton Vance Tax-Managed Buy-Write Opportunities Fund, Eaton Vance Tax-Managed Diversified Equity Income Fund, Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund and Eaton Vance Tax-Managed Global Diversified Equity Income Fund (collectively, the Current Funds) and Eaton Vance Management (Eaton Vance) and each registered closed-end investment company currently advised or to be advised in the future by Eaton Vance (including any successor in interest)[1] or by an entity controlling,

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1 A successor in interest is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

controlled by or under common control (within the meaning of Section 2(a)(9) of the Investment Company Act of 1940, as amended (the Act)) with Eaton Vance (such entities, together with Eaton Vance, the Investment Advisers) that decides in the future to rely on the requested relief[2] (such investment companies, together with the Current Funds, are the Funds, and individually a Fund, and the Funds, together with the Investment Advisers, are the Applicants) hereby apply for an order (the Order) of the Securities and Exchange Commission (the Commission) pursuant to Section 6(c) of the Act providing Applicants an exemption from the provisions of Section 19(b) of the Act and Rule 19b-1 thereunder, as more fully set forth below. Each Current Fund s common shares are listed on the New York Stock Exchange (NYSE[3]). Although the Current Funds have no current intention to do so, each Current Fund is authorized to issue preferred shares.

I. Description of Applicants

Each Current Fund is, and each future Fund will be, a closed-end management investment company registered under the Act. Each Current Fund is organized as a Massachusetts business trust.

As of June 30, 2008, the Current Funds had the following net assets and number of common shares outstanding:

Fund	Net Assets	Shares Outstanding
Eaton Vance Enhanced Equity Income Fund	$725,579,314	39,685,160

2 Any Fund that relies on the Order (as defined below) will comply with the terms and conditions of this Application. All registered closed-end investment companies that currently intend to rely on the Order are named as applicants.

3 The applicable NYSE symbols are as follows: Eaton Vance Enhanced Equity Income Fund (NYSE: EOI); Eaton Vance Enhanced Equity Income Fund II (NYSE: EOS); Eaton Vance Risk-Managed Diversified Equity Income Fund (NYSE: ETJ); Eaton Vance Tax-Managed Buy-Write Income Fund (NYSE: ETB); Eaton Vance Tax-Managed Buy-Write Opportunities Fund (NYSE: ETV); Eaton Vance Tax-Managed Diversified Equity Income Fund (NYSE: ETY); Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund (NYSE: ETW); and Eaton Vance Tax-Managed Global Diversified Equity Income Fund (NYSE: EXG).

Eaton Vance Enhanced Equity Income Fund II	$829,600,294	47,844,178
Eaton Vance Risk-Managed Diversified Equity Income Fund	$1,343,510,969	70,205,000
Eaton Vance Tax-Managed Buy-Write Income Fund	$429,633,737	24,581,806
Eaton Vance Tax-Managed Buy-Write Opportunities Fund	$1,061,462,591	63,173,419
Eaton Vance Tax-Managed Diversified Equity Income Fund	$2,545,135,561	149,711,079
Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund	$1,839,023,448	106,308,067
Eaton Vance Tax-Managed Global Diversified Equity Income Fund	$5,125,312,413	302,284,868

Set forth below in tabular format is descriptive information regarding the Current Funds:

Fund	**Investment Objective**	**Summary Strategy**
Eaton Vance Enhanced Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Invests primarily in a portfolio of large- and mid-capitalization common stocks, seeking to invest primarily in companies with above-average growth and financial strength. Under normal market conditions, the fund seeks to generate current earnings from option premiums by selling covered call options on a substantial portion of its portfolio securities.
Eaton Vance Enhanced Equity Income Fund II	Provide current income and gains, with a secondary objective of capital appreciation.	Invests primarily in a portfolio of large-and mid-capitalization common stocks, seeking to invest primarily in companies with above-average growth and financial strength. Under

		normal market conditions, the fund seeks to generate current earnings from option premiums by selling covered call options on a substantial portion of its portfolio securities.
Eaton Vance Risk-Managed Diversified Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation. Relative to other equity income funds, the fund seeks to provide less volatile returns and reduced exposure to loss of value during stock market declines.	Investment program consists primarily of owning a diversified portfolio of common stocks and employing a variety of options strategies. The fund seeks to earn high levels of tax-advantaged income and gains by (1) investing in stocks that pay dividends that qualify for favorable federal income tax treatment, (2) writing (selling) put options on individual stocks, and (3) writing (selling) stock index call options with respect to a portion of its common stock portfolio value.
Eaton Vance Tax-Managed Buy-Write Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Invests in a diversified portfolio of common stocks that seeks to exceed the total return performance of the S&P 500 Index and sell S&P 500 covered call options on a continuous basis.
Eaton Vance Tax-Managed Buy-Write Opportunities Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Invests in a diversified portfolio of common stocks in two segments: one that seeks to exceed the total return performance of the S&P 500 Index and sell S&P 500 covered call options on a continuous basis; and a second that seeks to exceed the total return performance of the NASDAQ-100 Index and sell NASDAQ-100 call options on

		a continuous basis.
Eaton Vance Tax-Managed Diversified Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Under normal market conditions, the fund invests at least 80% of its total assets in a combination of (1) dividend-paying common stocks and (2) common stocks the value of which is subject to covered written index call options.
Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Investment program consists primarily of (1) owning a diversified portfolio of common stocks, a segment of which holds stocks of U.S. issuers (the U.S. Segment) and a segment of which holds stocks of non-U.S. issuers (the International Segment); and, (2) selling on a continuous basis call options on broad-based domestic stock indices on at least 80% of the value of the U.S. Segment and call options on broad-based foreign country and/or regional stock indices on at least 80% of the value of the International Segment.
Eaton Vance Tax-Managed Global Diversified Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Investment program consists primarily of owning a diversified portfolio of domestic and foreign common stocks. The fund seeks to earn high levels of tax-advantaged income and gains by (1) emphasizing investments in stocks that pay dividends that qualify for favorable federal income tax treatment and (2) writing (selling) stock index call options with respect to a portion of its common stock portfolio value.

Eaton Vance, a registered investment adviser under the Investment Advisers Act of 1940 (Advisers Act), acts as the Current Funds investment adviser and administrator. Each Fund will be advised by an Investment Adviser that is registered under the Advisers Act. Eaton Vance and other Investment Advisers currently serve as investment advisers to investment companies and various individual and institutional clients with combined assets under management of approximately $155.8 billion as of July 31, 2008. Eaton Vance is a wholly-owned subsidiary of Eaton Vance Corp., a publicly-held holding company traded on the New York Stock Exchange, which through its subsidiaries and affiliates engages primarily in investment management, administration and marketing activities.

II. Relief Requested

Section 19(b) of the Act provides that it shall be unlawful in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors for any registered investment company to distribute long-term capital gains, as defined in the Internal Revenue Code of 1986 (the Code), more often than once every twelve months. Rule 19b-1 under the Act provides that no registered investment company which is a regulated investment company as defined in Section 851 of the Code shall distribute more than (i) one capital gain dividend, as defined in Section 852(b)(3)(C) of the Code, in any one taxable year of the company, (ii) one additional capital gain distribution made in whole or in part to avoid payment of excise tax under Section 4982 of the Code plus (iii) one supplemental clean-up capital gain dividend pursuant to Section 855 of the Code, which amount may not exceed 10% of the aggregate amount distributed for such taxable year.

The Applicants believe that Rule 19b-1 should be interpreted to permit each Fund to make an unlimited number of distributions on its common and preferred shares so long as it makes the designation necessary under the Code and Rule 19b-1 to transform such distributions into capital gain dividends restricted by Rule 19b-1 only as often as is permitted by Rule 19b-1, even if the Code would then require retroactively spreading the capital gain resulting from such designation over more than the identified number of distributions. However, in order to obtain certainty for the Funds proposed distribution policies, in the absence of such an interpretation Applicants hereby request an order pursuant to Section 6(c) of the Act granting an exemption from Section 19(b) of the Act and Rule 19b-1 thereunder to permit each Fund to make periodic long-term capital gains distributions (as described in Section 852(b)(3)(C) of the Code) as often as monthly in any one taxable year in respect of its common shares and as often as specified by or determined in accordance with the terms thereof in respect of the Fund s preferred shares.

In addition to the foregoing, although Applicants do not currently contemplate implementing a specified periodic payments policy for the preferred shares of the Funds, they may wish to do so in the future. To retain this flexibility and avoid having to seek additional exemptive relief in the future, Applicants also request relief pursuant to Section 6(c) of the Act from the provisions of Section 19(b) of the Act and Rule 19b-1 thereunder to permit each Fund to make periodic long-term capital gains distributions (as described in Section 852(b)(3)(C) of the Code) on any series of its preferred shares. Such distributions would be made as often as are specified in or pursuant to the terms of such series so long as the Fund maintains in effect a distribution policy with regard to such series of its preferred shares of a specific percentage of liquidation preference of such series of preferred shares, whether such specified percentage is

determined at the time the preferred shares are initially issued, pursuant to periodic remarketing or auctions or otherwise. The proposed distribution policy for the common shares and specified periodic payment policy adopted in the future for the preferred shares of the Funds are each hereinafter referred to as the Distribution Policy.

III. Representations of the Applicants

Applicants make the following representations regarding the requested relief:

Prior to its meetings for each of the Current Funds on February 9, 2009, the Board of Trustees (Board) of each of the Current Funds, including a majority of the members who are not interested persons of the Current Funds as defined in Section 2(a)(19) of the Act (the Independent Trustees), requested, and Eaton Vance provided, such information as was reasonably necessary to an informed determination of whether the Boards should adopt a proposed Distribution Policy. In particular, the Boards and the Independent Trustees reviewed information regarding the purpose and terms of a proposed Distribution Policy, the likely effects of such policy on the Current Funds long-term total return (in relation to market price and net asset value per common share (NAV) and the relationship between the Current Funds distribution rate on their common shares under the policy and the Current Funds total return (in relation to NAV); whether the rate of distribution would exceed the Current Funds expected total return in relation to its NAV; and any foreseeable material effects of such policy on the Current Funds long-term total return (in relation to market price and NAV). The Independent Trustees also considered what conflicts of interest Eaton Vance and the affiliated persons of Eaton Vance and the Current Funds might have with respect to the adoption or implementation of such policy. After considering such information the Boards, including the Independent Trustees, of the Current Funds approved a distribution policy and related plan with respect to the Current Funds common shares (the Plan) and determined that such Plan is consistent with the

Current Funds investment objectives and in the best interests of the Current Funds common shareholders.

The purpose of the Plan of each Current Fund is to permit the Current Funds to distribute over the course of each year, through periodic distributions as nearly equal as practicable and any required special distributions, an amount closely approximating the total taxable income of the Current Funds during such year and, if so determined by their Boards, all or a portion of the returns of capital paid by portfolio companies to the Current Funds during such year. Under the Plan, the Current Funds would distribute to their common shareholders a fixed monthly percentage of the market price of the Current Funds common shares at a particular point in time or a fixed monthly percentage of NAV at a particular time or a fixed monthly amount, any of which may be adjusted from time to time. Under the Plan, the minimum annual distribution rate with respect to the Current Funds common shares would be independent of the Current Funds performance during any particular period but would be expected to correlate with the Current Funds performance over time. Except for extraordinary distributions and potential increases or decreases in the final dividend periods in light of the Current Funds performance for the entire calendar year and to enable the Current Funds to comply with the distribution requirements of Subchapter M of the Code for the calendar year, each distribution on the common shares would be at the stated rate then in effect.

At the same meeting, each Board adopted policies and procedures under Rule 38a-1 that:

(i) are reasonably designed to ensure that all notices required to be sent to the Current Funds shareholders pursuant to Section 19(a) of the Act, Rule 19a-1 thereunder and condition 4 below (each a 19(a) Notice) include the disclosure required by Rule 19a-1 and by condition 2(a) set forth in Part V below, and that all other written

communications by the Current Funds or their agents described in condition 3(a) set forth in Part V below about the distributions under the Plan include the disclosure required by condition 3(a) below; and

(ii) require the Current Funds to keep records that demonstrate compliance with all of the conditions of the Order and that are necessary for the Current Funds to form the basis for, or demonstrate the calculation of, the amounts disclosed in their 19(a) Notices.

The records of the actions of the Boards of Trustees of the Current Funds summarize the basis for their approval of the Plans, including their consideration of the factors described above. Such records will be maintained for a period of at least six years from the date of such meeting, the first two years in an easily accessible place, or for such longer period as may otherwise be required by law.

In order to rely on the Order a future Fund must satisfy each of the foregoing representations except that such representations will be made in respect of actions by the board of trustees of such future Fund and will be made at a future time and except that the purpose of its distribution policy may differ from the purpose of the Current Funds Plans in that such distribution policy may be to distribute a fixed amount or a fixed percentage of net asset value or net asset value per share without regard to the level of income, appreciation or total return of such Fund over particular series of dividend periods or with regard to only one or a combination of such elements over such period of time and may exclude reference to distributions of capital received from portfolio companies. Notwithstanding the foregoing, under any such distribution policy such future Fund would expect that its distributions would correlate with its total return

over time plus, if applicable, distributions of capital received from such future Fund s portfolio companies.

IV. Justification for the Requested Relief

Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons set forth below, Applicants submit that the requested exemption from Section 19(b) of the Act and Rule 19b-1 thereunder would be consistent with the standards set forth in Section 6(c) of the Act and in the best interests of the Applicants and their respective shareholders.

1. *Receipt of the Order would serve shareholder interests.*

Applicants believe that the shareholders of the Current Funds are generally conservative, dividend-sensitive investors who desire current income periodically and may favor a fixed distribution policy. Based on discussions at Board meetings, the Boards of the Current Funds determined that investors in the common shares of the Current Funds may prefer an investment vehicle that provides monthly distributions and a steady cash flow.

An exemption from Rule 19b-1 would benefit shareholders in another way. Common shares of closed-end funds that invest primarily in equity securities often trade in the marketplace at a discount to their NAV. In the view of the Applicants, this discount may be reduced if the Funds are permitted to pay relatively frequent dividends on their common shares at a consistent rate, whether or not those dividends contain an element of long-term capital gain. Such a reduction in discount would benefit the Funds common shareholders along with the Funds.

2. *Each Fund s shareholders would receive information sufficient to clearly inform them of the nature of the distributions they are receiving.*

One of the concerns leading to the enactment of Section 19(b) and adoption of Rule 19b-1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income.[4] However, Rule 19a-1 under the Act effectively addresses this concern by requiring that distributions (or the confirmation of the reinvestment thereof) estimated to be sourced in part from capital gains or capital be accompanied by a separate statement showing the sources of the distribution (e.g., estimated net income, net short-term capital gains, net long-term capital gains and/or return of capital). The same information is included in the Current Funds annual reports to shareholders and on IRS Form 1099-DIV, which is sent to each common and preferred shareholder who received distributions during a particular year (including shareholders who have sold shares during the year).

In addition, each Fund will make the additional disclosures required by the conditions set forth in Part V below, and the Current Funds have adopted compliance policies and procedures in accordance with Rule 38a-1 under the Act to ensure that all required notices and disclosures are sent to shareholders.

Rule 19a-1, the Plans and the compliance policy and procedures ensure that each Fund s shareholders would be provided sufficient information to understand that periodic distributions are not tied to the Fund s net investment income (which for this purpose is the Fund s taxable income other than from capital gains) and realized capital gains to date, and may not represent yield or investment return. Accordingly, continuing to subject the Funds to Section 19(b) and Rule 19b-1 would afford shareholders no extra protection. In addition, the Funds will undertake

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4 *See* Securities and Exchange Commission 1966 Report to Congress on Investment Company Growth (H.R. Rep. No. 2337, 89th Cong., 2d Sess. 190-95 (1966)); S. Rep. No. 91-184, 91st Cong., 1st Sess. 29 (1969); H.R. Rep. No. 91-1382, 91st Cong., 2d Sess. 29 (1970) (the Report).

to request intermediaries to forward 19(a) Notices to their customers and to reimburse them for the costs of forwarding. Such forwarding may occur in any manner permitted by statute, rule, order or the staff.

3. *Under certain circumstances, Rule 19b-1 gives rise to improper influence on portfolio management decisions, with no offsetting benefit to shareholders.*

Rule 19b-1, when applied to a Plan, actually gives rise to one of the concerns that Rule 19b-1 was intended to avoid: undesirable influence on portfolio management decisions. Funds that pay long-term capital gains distributions only once per year in accordance with Rule 19b-1 impose no pressure on management to realize capital gains at any time when purely investment considerations do not dictate doing so. In the absence of an exemption from Rule 19b-1, the adoption of a periodic distribution plan imposes pressure on management (i) not to realize any net long-term capital gains until the point in the year that the fund can pay all of its remaining distributions in accordance with Rule 19b-1 and (ii) not to realize any long-term capital gains during any particular year in excess of the amount of the aggregate pay-out for the year (since as a practical matter excess gains must be distributed and accordingly would not be available to satisfy pay-out requirements in following years), notwithstanding that purely investment considerations might favor realization of long-term gains at different times or in different amounts.

No purpose is served by the distortion in the normal operation of a periodic distribution plan required in order to comply with Rule 19b-1. There is no reason or logic in requiring any fund that adopts a periodic distribution plan either to retain (and pay taxes on) long-term capital gains (with the resulting additional tax return complexities for the fund s shareholders) or to avoid designating its distributions of long-term gains as capital gains dividends for tax purposes (thereby avoiding a Rule 19b-1 problem but providing distributions taxable at ordinary income

rates rather than the much lower long-term capital gains rates and being required to pay income tax on the amount of such income). The desirability of avoiding these anomalous results creates pressure to limit the realization of long-term capital gains that otherwise would be taken for purely investment considerations.

The Order requested by the Applicants would minimize these anomalous effects of Rule 19b-1 by enabling the Funds to realize long-term capital gains as often as investment considerations dictate without fear of violating Rule 19b-1.

4. *Other concerns leading to adoption of Rule 19b-1 are not applicable.*

Another concern that led to the enactment of Section 19(b) of the Act and adoption of Rule 19b-1 was that frequent capital gains distributions could facilitate improper fund share sales practices, including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming capital gains dividend (selling the dividend), where the dividend would result in an immediate corresponding reduction in NAV and would be in effect a taxable return of the investor s capital. Applicants submit that this concern should not apply to closed-end investment companies, such as the Funds, which do not continuously distribute shares. Furthermore, if the underlying concern extends to secondary market purchases of shares of a closed-end fund that are subject to a large upcoming capital gains dividend, adoption of a periodic distribution plan actually helps minimize the concern by avoiding, through periodic distributions, any buildup of large end-of-the-year distributions.

The Applicants also submit that the selling the dividend concern is not applicable to preferred shares, which entitle a holder to no more than a specified periodic dividend and, like debt securities, are initially sold at a price based upon their liquidation preference, credit quality, dividend rate and frequency of payment. Investors buy preferred shares for the purpose of receiving specific payments at the frequency bargained for, and any application of Rule 19b-1 to

preferred shares would be contrary to the expectation of investors. There is also currently a tax rule that provides that any loss attributable to a long-term capital gain realized within six months prior to the incurrence of the loss must be treated as a long-term capital loss to avoid the selling of dividends.

5. *Further limitations of Rule 19b-1.*

Subparagraphs (a) and (f) of Rule 19b-1 limit the number of capital gains dividends, as defined in Section 852(b)(3)(C) of the Code, that a fund may make with respect to any one taxable year to one, plus a supplemental clean-up distribution made pursuant to Section 855 of the Code not exceeding 10% of the total amount distributed for the year, plus one additional capital gain dividend made in whole or in part to avoid the excise tax under Section 4982 of the Code.

Applicants assert that by limiting the number of capital gain dividends that a fund may make with respect to any one year, Rule 19b-1 may prevent the normal and efficient operation of a periodic distribution plan whenever that fund s realized net long-term capital gains in any year exceed the total of the periodic distributions that may include such capital gains under the Rule. Rule 19b-1 thus may force the fixed regular periodic distributions to be funded with returns of capital[5] (to the extent net investment income and realized short term capital gains are insufficient to fund the distribution), even though realized net long term capital gains otherwise would be available. To distribute all of a fund s long-term capital gains within the limits in Rule 19b-1, a fund may be required to make total distributions in excess of the annual amount called for by its periodic distribution plan or to retain and pay taxes on the excess amount. Applicants believe that

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5 These would be returns of capital for financial accounting purposes and not for tax accounting purposes.

the application of Rule 19b-1 to a fund s periodic distribution plan may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

Revenue Ruling 89-81 under the Code requires that a fund that seeks to qualify as a regulated investment company under the Code and that has both common shares and preferred shares outstanding designate the types of income, e.g., investment income and capital gains, in the same proportion as the total distributions distributed to each class for the tax year. To satisfy the proportionate designation requirements of Revenue Ruling 89-81, whenever a fund has realized a long term capital gain with respect to a given tax year, the fund must designate the required proportionate share of such capital gain to be included in common and preferred share dividends. Although Rule 19b-1 allows a fund some flexibility with respect to the frequency of capital gains distributions, a fund might use all of the exceptions available under Rule 19b-1 for a tax year and still need to distribute additional capital gains allocated to the preferred shares to comply with Revenue Ruling 89-81.

The potential abuses addressed by Section 19(b) and Rule 19b-1 do not arise with respect to preferred shares issued by a closed-end fund. Such distributions are either fixed or are determined in periodic auctions by reference to short-term interest rates rather than by reference to performance of the issuer, and Revenue Ruling 89-81 determines the proportion of such distributions that are comprised of the long-term capital gains.

Applicants also submit that the selling the dividend concern is not applicable to preferred shares, which entitle a holder to no more than a periodic dividend at a fixed rate or the rate determined by the market, and, like debt securities, are priced based upon their liquidation value, dividend rate, credit quality, and frequency of payment. Investors buy preferred shares for

the purpose of receiving payments at the frequency bargained for and do not expect the liquidation value of their shares to change.

The proposed Order will assist the Funds in avoiding these Rule 19b-1 problems.

6. *General*

The relief requested is that the Commission permit the Funds to make periodic distributions in respect of their common shares as often as monthly and in respect of their preferred shares as specified by or determined in accordance with the terms thereof. Granting this relief would provide the Funds with flexibility in meeting investor interest in receiving more frequent distributions. By reducing the amount of individual periodic distributions even further, implementation of the additional relief would actually ameliorate the concerns that gave rise to Section 19(b) and Rule 19b-1 and help avoid the selling of dividends problem, which Section 19(b) and Rule 19b-1 are not effective in preventing.

The potential issues under Rule 19b-1 are basically not relevant to distributions on preferred shares. Not only are such distributions fixed or determined in periodic auctions or remarketings by reference to short-term interest rates rather than by reference to performance of the issuer but also the long-term capital gain component is mandated by the Internal Revenue Service to be the same proportion as the proportion of long-term gain dividends bears to the total distributions in respect of the common shares and consequently the long-term gain component cannot even be known until the last dividend of the year. In these circumstances it would be very difficult for any of the potential abuses reflected in Rule 19b-1 s restrictions to occur.

In summary, Rule 19b-1 in the circumstances referred to above distorts the effective and proper functioning of the Funds distributions and gives rise to the very pressures on portfolio management decisions that Rule 19b-1 was intended to avoid. These distortions forced by Rule 19b-1 serve no purpose and are not in the best interests of shareholders.

V. Applicants Conditions

Applicants agree that, with respect to each Fund seeking to rely on the Order, the Order

will be subject to the following conditions:

1. *Compliance Review and Reporting*

Each Fund s chief compliance officer will (a) report to the Fund s Board, no less frequently than once every three months or at the next regularly scheduled quarterly Board meeting, whether (i) the Fund and its Investment Adviser have complied with the conditions of the Order and (ii) a material compliance matter (as defined in Rule 38a-1(e)(2) under the Act) has occurred with respect to such conditions; and (b) review the adequacy of the policies and procedures adopted by the Board no less frequently than annually.

2. *Disclosures to Fund Shareholders*

(a) Each 19(a) Notice disseminated to the holders of the Fund s common shares, in addition to the information required by Section 19(a) and Rule 19a-1:

Will provide, in a tabular or graphical format:

(1) the amount of the distribution, on a per share basis, together with the amounts of such distribution amount, on a per share basis and as a percentage of such distribution amount, from estimated: (A) net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(2) the fiscal year-to-date cumulative amount of distributions, on a per share basis, together with the amounts of such cumulative amount, on a per share basis and as a percentage of such cumulative amount of distributions, from estimated: (A) net investment income; (B) net realized short-term capital gains;

(C) net realized long-term capital gains; and (D) return of capital or other capital source;

(3) the average annual total return in relation to the change in NAV for the 5-year period (or, if the Fund s history of operations is less than five years, the time period commencing immediately following the Fund s first public offering) ending on the last day of the month ended immediately prior to the most recent distribution record date compared to the current fiscal period s annualized distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution record date; and

(4) the cumulative total return in relation to the change in NAV from the last completed fiscal year to the last day of the month prior to the most recent distribution record date compared to the fiscal year-to-date cumulative distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution record date.

Such disclosure shall be made in a type size at least as large and as prominent as the estimate of the sources of the current distribution; and

(ii) will include the following disclosure:

(1) You should not draw any conclusions about the Fund s investment performance from the amount of this distribution or from the terms of the Fund s Plan ;

(2) The Fund estimates that it has distributed more than its income and net realized capital gains; therefore, a portion of your distribution may be a return of capital. A return of capital may occur, for example, when some or all of

the money that you invested in the Fund is paid back to you. A return of capital distribution does not necessarily reflect the Fund s investment performance and should not be confused with yield or income[6] ;

(3) The amounts and sources of distributions reported in this 19(a) Notice are only estimates and are not being provided for tax reporting purposes. The actual amounts and sources of the amounts for [accounting and] tax reporting purposes will depend upon the Fund s investment experience during the remainder of its fiscal year and may be subject to changes based on tax regulations. The Fund will send you a Form 1099-DIV for the calendar year that will tell you how to report these distributions for federal income tax purposes. Such disclosure shall be made in a type size at least as large as and as prominent as any other information in the 19(a) Notice and placed on the same page in close proximity to the amount and the sources of the distribution;

(b) On the inside front cover of each report to shareholders under Rule 30e-1 under the Act, the Fund will:

(i) describe the terms of the Plan (including the fixed amount or fixed percentage of the distributions and the frequency of the distributions);

(ii) include the disclosure required by condition 2(a)(ii)(1) above;

(iii) state, if applicable, that the Plan provides that the Board may amend or terminate the Plan at any time without prior notice to Fund shareholders; and

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6 The disclosure in this condition 2(a)(ii)(2) will be included only if the current distribution or the fiscal year-to- date cumulative distributions are estimated to include a return of capital.

(iv) describe any reasonably foreseeable circumstances that might cause the Fund to terminate the Plan and any reasonably foreseeable consequences of such termination.

(c) Each report provided to shareholders under Rule 30e-1 under the Act and each prospectus filed with the Commission on Form N-2 under the Act, will provide the Fund s total return in relation to changes in NAV in the financial highlights table and in any discussion about the Fund s total return.

3. *Disclosure to Shareholders, Prospective Shareholders and Third Parties*

(a) Each Fund will include the information contained in the relevant 19(a) Notice, including the disclosure required by condition 2(a)(ii) above, in any written communication (other than a communication on Form 1099) about the Plan or distributions under the Plan by the Fund, or agents that the Fund has authorized to make such communication on the Fund s behalf, to any Fund common shareholder, prospective common shareholder or third-party information provider;

(b) Each Fund will issue, contemporaneously with the issuance of any 19(a) Notice, a press release containing the information in the 19(a) Notice and file with the Commission the information contained in such 19(a) Notice, including the disclosure required by condition 2(a)(ii) above, as an exhibit to its next filed Form N-CSR; and

(c) Each Fund will post prominently a statement on its (or the Investment Adviser s) web site containing the information in each 19(a) Notice, including the disclosure required by condition 2(a)(ii) above, and will maintain such information on such web site for at least 24 months.

4. *Delivery of 19(a) Notices to Beneficial Owners*

If a broker, dealer, bank or other person (financial intermediary) holds common shares issued by the Fund in nominee name, or otherwise, on behalf of a beneficial owner, the Fund: (a) will request that the financial intermediary, or its agent, forward the 19(a) Notice to all beneficial owners of the Fund s shares held through such financial intermediary; (b) will provide, in a timely manner, to the financial intermediary, or its agent, enough copies of the 19(a) Notice assembled in the form and at the place that the financial intermediary, or its agent, reasonably requests to facilitate the financial intermediary s sending of the 19(a) Notice to each beneficial owner of the Fund s shares; and (c) upon the request of any financial intermediary, or its agent, that receives copies of the 19(a) Notice, will pay the financial intermediary, or its agent, the reasonable expenses of sending the 19(a) Notice to such beneficial owners.

5. *Special Board Review for Funds Whose Common Shares Trade at a Premium*

If:

(a) The Fund s common shares have traded on the stock exchange that they primarily trade on at the time in question at an average premium to NAV equal to or greater than 10%, as determined on the basis of the average of the discount or premium to NAV of the Fund s common shares as of the close of each trading day over a 12-week rolling period (each such 12-week rolling period ending on the last trading day of each week); and

(b) The Fund s annualized distribution rate for such 12-week rolling period, expressed as a percentage of NAV as of the ending date of such 12-week rolling period is greater than the Fund s average annual total return in relation to the change in NAV over the 2-year period ending on the last day of such 12-week rolling period;

then:

(i) At the earlier of the next regularly scheduled meeting or within four months of the last day of such 12-week rolling period, the Board including a majority of the Independent Trustees:

(1) will request and evaluate, and the Fund s Investment Adviser will furnish, such information as may be reasonably necessary to make an informed determination of whether the Plan should be continued or continued after amendment;

(2) will determine whether continuation, or continuation after amendment, of the Plan is consistent with the Fund s investment objective(s) and policies and is in the best interests of the Fund and its shareholders, after considering the information in condition 5(b)(i)(1) above; including, without limitation:

(A) whether the Plan is accomplishing its purpose(s);

(B) the reasonably foreseeable material effects of the Plan on the Fund s long-term total return in relation to the market price and NAV of the Fund s common shares; and

(C) the Fund s current distribution rate, as described in condition 5(b) above, compared with the Fund s average annual taxable income or total return over the 2-year period, as described in condition 5(b), or such longer period as the Board deems appropriate; and

(3) based upon that determination, will approve or disapprove the continuation, or continuation after amendment, of the Plan; and

(ii) The Board will record the information considered by it, including its consideration of the factors listed in condition 5(b)(i)(2) above, and the basis for its approval or disapproval of the continuation, or continuation after amendment, of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place.

6. *Public Offerings*

The Fund will not make a public offering of the Fund s common shares other than:

(a) a rights offering below NAV to holders of the Fund s common shares;

(b) an offering in connection with a dividend reinvestment plan, merger, consolidation, acquisition, spin off or reorganization of the Fund; or

(c) an offering other than an offering described in conditions 6(a) and 6(b) above, provided that, with respect to such other offering:

(i) the Fund s average annual distribution rate for the six months ending on the last day of the month ended immediately prior to the most recent distribution record date[7], expressed as a percentage of NAV as of such date, is no more than 1 percentage point greater than the Fund s average annual total return for the 5-year period ending on such date[8]; and

(ii) the transmittal letter accompanying any registration statement filed with the Commission in connection with such offering discloses that the Fund has received an order under Section 19(b) to permit it to make periodic distributions of long-term capital gains with respect to its common shares as frequently as twelve times each year, and as

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7 If the Fund has been in operation fewer than six months, the measured period will begin immediately following the Fund s first public offering.

8 If the Fund has been in operation fewer than five years, the measured period will begin immediately following the Fund s first public offering.

frequently as distributions are specified by or determined in accordance with the terms of any outstanding preferred shares as such Fund may issue.

7. *Amendments to Rule 19b-1*

The requested order will expire on the effective date of any amendments to Rule 19b-1 that provide relief permitting certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common shares as frequently as twelve times each year.

VI. Applicable Precedent

The Commission has granted relief substantially the same as that sought here on several occasions.[9]

VII. Procedural Compliance

At meetings duly held in September 2004, December 2004, February 2005, April 2005, December 2006 and April 2007 the Boards of the Current Funds adopted the following resolutions authorizing the execution and filing of this Application (which, as defined below, includes all amendments to the initial filing).

RESOLVED, that the President, any Vice President, the Treasurer the Secretary, and any Assistant Secretary of the Fund be, and each of them acting singly hereby is authorized, in the name and on behalf of the Fund, to prepare, execute and file with the Securities and Exchange Commission an application or applications and any exhibits and amendments thereto (the Application) for the Fund and other investment companies pursuant to Section 6(c) of the Act for an order granting exemptions from the provisions of Section 19(b) of and Rule 19b-1 under the Act, permitting the Fund to make as many capital gains distributions in any taxable year as may be necessary for the Fund to implement its

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9 *See*, *e.g.,* Calamos Convertible Opportunities and Income Fund, *et al*. (SEC File No. 812-13063); John Hancock Income Securities Trust, et al. (SEC File No. 13357); and ING Clarion Real Estate Income Fund, *et al*. (SEC File No. 812-13074).

managed, fixed distribution policy, and any other sections of the Act and the Rule thereunder, as any such officer of the Fund shall deem necessary or appropriate to conduct the Fund s business.

FURTHER RESOLVED, that the President, any Vice President, the Treasurer, the Secretary and any Assistant Secretary of the Fund be, and each of them acting singly hereby is, authorized to execute and cause to be filed the application and to take such further actions and execute and file such further amendments or other documents as may be necessary, desirable or appropriate to the implementation and performance of the preceding resolution and the matters contemplated therein, their execution thereof to be conclusive evidence of such approval.

Pursuant to Rule 0-2(c) under the Act, each Applicant hereby states that the person signing and filing this Application on its behalf is fully authorized to do so, that under the provisions of the Articles of Incorporation or the Declaration of Trust, as the case may be, of such Applicant responsibility for the management of the affairs of such Applicant is vested in its Board, and that such Applicant has complied with all requirements for the execution and filing of this Application in its name and on its behalf.

These verifications required by Rule 0-2(d) are attached to this Application as Exhibit A.

Pursuant to Rule 0-2(f) under the Act, the Applicants further state that:

1. (a) The address of each of the Applicants is as follows:

   The Eaton Vance Building
   255 State Street
   Boston, Massachusetts 02109

2. Any questions regarding this Application should be directed to:

   Frederick S. Marius The Eaton Vance Building
   255 State Street
   Boston, Massachusetts 02109

   and

Diane E. Ambler
K&L Gates LLP
1601 K Street NW
Washington, DC 20006
(202) 778-9886
(202) 778-9100 (fax)

VIII. Conclusion

On the basis of the foregoing, the Applicants respectfully request that the Commission enter an order pursuant to Section 6(c) of the Act exempting the Funds from the provisions of Section 19(b) of the Act and Rule 19b-1 thereunder to permit each Fund to make distributions on its common shares consisting in whole or in part of capital gain dividends as frequently as once per month so long as it complies with the conditions of the Order and maintains in effect a distribution policy with respect to its common shares calling for periodic distributions of an amount equal to a fixed amount per share, a fixed percentage of market price per share or a fixed percentage of such Fund s NAV. In addition, the Applicants also request relief to permit each Fund to make periodic long-term capital gains distributions on any series of preferred shares so long as the Fund maintains in effect a distribution policy with regard to such series of its preferred shares of a specific percentage of liquidation preference of such series of preferred shares, whether such specified percentage is determined at the time the preferred shares are initially issued, pursuant to periodic remarketing or auctions or otherwise.

EATON VANCE ENHANCED EQUITY INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE ENHANCED EQUITY INCOME FUND II

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE RISK-MANAGED DIVERSIFIED EQUITY INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE TAX-MANAGED BUY-WRITE INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE TAX-MANAGED BUY-WRITE OPPORTUNITIES FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE TAX-MANAGED DIVERSIFIED EQUITY INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE TAX-MANAGED GLOBAL BUY-WRITE OPPORTUNITIES FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FUND

By: /s/ Maureen A,. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EATON VANCE MANAGEMENT

By: /s/ Frederick S. Marius
Name: Frederick S. Marius
Title: Secretary and Chief Legal Officer

Dated January 9, 2009

EXHIBIT INDEX

EXHIBIT A

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Enhanced Equity Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE ENHANCED EQUITY INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT B

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Enhanced Equity Income Fund II (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE ENHANCED EQUITY INCOME FUND II

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT C

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Risk-Managed Diversified Equity Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE RISK-MANAGED DIVERSIFIED EQUITY INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT D

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Tax-Managed Buy-Write Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE TAX-MANAGED BUY-WRITE INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT E

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Tax-Managed Buy-Write Opportunities Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE TAX-MANAGED BUY-WRITE OPPORTUNITIES FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT F

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Tax-Managed Diversified Equity Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE TAX-MANAGED DIVERSIFIED EQUITY INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT G

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE TAX-MANAGED GLOBAL BUY-WRITE OPPORTUNITIES FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT H

VERIFICATION

The undersigned states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Tax-Managed Global Diversified Equity Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that she is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of her knowledge, information and belief.

EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FUND

By: /s/ Maureen A. Gemma
Name: Maureen A. Gemma
Title: Secretary and Chief Legal Officer

EXHIBIT I

VERIFICATION

The undersigned states that he has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Management (Eaton Vance); that he is the Vice President, Secretary and Chief Legal Officer of Eaton Vance; and that all action by stockholders, trustees, and other bodies necessary to authorize the undersigned to execute and file such instrument has been taken. The undersigned further states that he is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

EATON VANCE MANAGEMENT

By: /s/ Frederick S. Marius
Name: Frederick S. Marius
Title: Secretary and Chief Legal Officer

^ Securities and Exchange Commission
Washington, DC 20549

In the Matter of the Application of:
Eaton Vance Enhanced Equity Income Fund
Eaton Vance Enhanced Equity Income Fund II
Eaton Vance Risk-Managed Diversified Equity Income Fund
Eaton Vance Tax-Managed Buy-Write Income Fund
Eaton Vance Tax-Managed Buy-Write Opportunities Fund
Eaton Vance Tax-Managed Diversified Equity Income Fund
Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund
Eaton Vance Tax-Managed Global Diversified Equity Income Fund
Eaton Vance Management

File No. 812^ -13586

^

AMENDMENT NO. 1 AMENDING AND RESTATING AN APPLICATION FOR AN ORDER PURSUANT TO
SECTION 6(c) OF THE^ INVESTMENT COMPANY ACT OF 1940 FOR EXEMPTIONS
FROM SECTION 19(b) OF THE ACT AND RULE 19b-1 THEREUNDER
^

Please direct all communications, notices and orders to:

Frederick S. Marius
Eaton Vance Management
Eaton Vance Building
255 State Street
Boston, Massachusetts 02109

With copies to:

Diane E. Ambler
K&L Gates LLP
1601 K Street, NW
Washington, DC 20006
(202) 778-9886
(202) 778-9100 (fax)

Page 1 of ^ 40 pages.

UNITED STATES OF AMERICA^

BEFORE THE^

SECURITIES AND EXCHANGE COMMISSION

In the Matter of	) AMENDMENT NO. 1 AMENDING
	) AND RESTATING AN APPLICATION
	) PURSUANT TO SECTION 6(c)^ OF
EATON VANCE ENHANCED EQUITY INCOME FUND	) THE INVESTMENT COMPANY ACT OF
EATON VANCE ENHANCED EQUITY INCOME FUND II	) 1940^
EATON VANCE RISK-MANAGED DIVERSIFIED EQUITY	) FOR AN ORDER ^ OF EXEMPTION^ FROM
INCOME FUND	) SECTION 19(b) OF THE ACT AND RULE
EATON VANCE TAX-MANAGED BUY-WRITE INCOME FUND^	) 19B-1 THEREUNDER
EATON VANCE TAX-MANAGED BUY-WRITE	)
OPPORTUNITIES FUND^	)
EATON VANCE TAX-MANAGED DIVERSIFIED EQUITY	)
INCOME FUND	)
EATON VANCE TAX-MANAGED GLOBAL BUY-WRITE	)
OPPORTUNITIES FUND	)
EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED ^	)
EQUITY INCOME FUND^	)
EATON VANCE MANAGEMENT^	)
	)
File No. 812^ -13586	)

Eaton Vance Enhanced Equity Income Fund, Eaton Vance Enhanced Equity Income Fund II, ^ Eaton Vance Risk-Managed Diversified Equity Income Fund, Eaton Vance Tax-Managed Buy-Write Income Fund, Eaton Vance Tax-Managed Buy-Write Opportunities Fund, Eaton Vance Tax-Managed Diversified Equity Income Fund, Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund and Eaton Vance Tax-Managed Global Diversified Equity Income Fund (^ collectively, the Current Funds) and Eaton Vance Management (Eaton Vance) and each registered closed-end investment company currently advised or to be advised in the future by Eaton Vance (including any successor in interest)[1] or by an entity controlling,

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1 A successor in interest is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

controlled by or under common control (within the meaning of Section 2(a)(9) of the Investment Company Act of 1940, as amended (the Act)) with Eaton Vance (such entities, together with Eaton Vance, the Investment Advisers) that decides in the future to rely on the requested relief[2] (such investment companies, together with the Current Funds, are the Funds, and individually a Fund, and the Funds, together with the Investment Advisers, are the Applicants) hereby apply for an order (the Order) of the Securities and Exchange Commission (the Commission) pursuant to Section 6(c) of the Act providing Applicants an exemption from the provisions of Section 19(b) of the Act and Rule 19b-1 thereunder, as more fully set forth below. Each Current Fund s common shares are listed on the New York Stock Exchange (NYSE[3]). Although the Current Funds have no current intention to do so, each Current Fund is authorized to issue preferred shares.

I. Description of Applicants

Each Current Fund is, and each future Fund will be, a closed-end management investment company registered under the Act^ . Each Current Fund is organized as a Massachusetts business trust.

As of June 30, 2008, the Current Funds had the following net assets and number of common shares outstanding:

Fund	Net Assets	Shares Outstanding
Eaton Vance Enhanced Equity Income Fund	$725,579,314^	39,685,160

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2 Any Fund that ^ relies on the Order (as defined below) ^ will comply with the terms and conditions of this Application. All registered closed-end investment companies that currently intend to rely on the Order are named as applicants.

3 The applicable NYSE symbols are as follows: Eaton Vance Enhanced Equity Income Fund (NYSE: EOI); Eaton Vance Enhanced Equity Income Fund II (NYSE: EOS); Eaton Vance Risk-Managed Diversified Equity Income Fund (NYSE: ETJ); Eaton Vance Tax-Managed Buy-Write Income Fund (NYSE: ETB); Eaton Vance Tax-Managed Buy-Write Opportunities Fund (NYSE: ETV); Eaton Vance Tax-Managed Diversified Equity Income Fund (NYSE: ETY); Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund (NYSE: ETW); and Eaton Vance Tax-Managed Global Diversified Equity Income Fund (NYSE: EXG).

Eaton Vance Enhanced Equity Income Fund II	$829,600,294	47,844,178
Eaton Vance Risk-Managed Diversified Equity Income Fund	$1,343,510,969	70,205,000
Eaton Vance Tax-Managed Buy-Write Income Fund	$429,633,737	24,581,806
Eaton Vance Tax-Managed Buy-Write Opportunities Fund	$1,061,462,591	63,173,419
Eaton Vance Tax-Managed Diversified Equity Income Fund	$2,545,135,561	149,711,079
Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund	$1,839,023,448	106,308,067
Eaton Vance Tax-Managed Global Diversified Equity Income Fund	$5,125,312,413	302,284,868

Set forth below in tabular format is descriptive information regarding the Current Funds:

Fund	**Investment Objective**	**Summary Strategy**
Eaton Vance Enhanced Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Invests primarily in a portfolio of large- and mid-capitalization common stocks, seeking to invest primarily in companies with above-average growth and financial strength.^ Under normal market conditions, the fund seeks to generate current earnings from option premiums by selling covered call options on a substantial portion of its portfolio securities.
Eaton Vance Enhanced Equity Income Fund II	Provide current income and gains, with a secondary objective of capital appreciation.	Invests primarily in a portfolio of large-and mid-capitalization common stocks, seeking to invest primarily in companies with above-average growth

		and financial strength.^ Under normal market conditions, the fund seeks to generate current earnings from option premiums by selling covered call options on a substantial portion of its portfolio securities.
Eaton Vance Risk-Managed Diversified Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.^ Relative to other equity income funds, the fund seeks to provide less volatile returns and reduced exposure to loss of value during stock market declines.^	Investment program consists primarily of owning a diversified portfolio of common stocks and employing a variety of options strategies.^ The fund seeks to earn high levels of tax-advantaged income and gains by (1) investing in stocks that pay dividends that qualify for favorable federal income tax treatment, (2) writing (selling) put options on individual stocks, and (3) writing (selling) stock index call options with respect to a portion of its common stock portfolio value.
Eaton Vance Tax-Managed Buy-Write Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Invests in a diversified portfolio of common stocks that seeks to exceed the total return performance of the S&P 500 Index and sell S&P 500 covered call options on a continuous basis.^
Eaton Vance Tax-Managed Buy-Write Opportunities Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Invests in a diversified portfolio of common stocks in two segments: one that seeks to exceed the total return performance of the S&P 500 Index and sell S&P 500 covered call options on a continuous basis; and a second that seeks to exceed the total return performance of the NASDAQ-100 Index and sell

		NASDAQ-100 call options on a continuous basis.
Eaton Vance Tax-Managed Diversified Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Under normal market conditions, the fund invests at least 80% of its total assets in a combination of (1) dividend-^ paying common stocks and (2) common stocks the value of which is subject to covered written index call options. ^
Eaton Vance Tax-Managed Global Buy-Write Opportunities Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Investment program consists primarily of (1) owning a diversified portfolio of common stocks, a segment of which holds stocks of U.S. issuers (the U.S. Segment) and a segment of which holds stocks of non-U.S. issuers (the International Segment); and, (2) selling on a continuous basis call options on broad-based domestic stock indices on at least 80% of the value of the U.S. Segment and call options on broad-based foreign country and/or regional stock indices on at least 80% of the value of the International Segment.
Eaton Vance Tax-Managed Global Diversified Equity Income Fund	Provide current income and gains, with a secondary objective of capital appreciation.	Investment program consists primarily of owning a diversified portfolio of domestic and foreign common stocks.^ The fund seeks to earn high levels of tax-advantaged income and gains by (1) emphasizing investments in stocks that pay dividends that qualify for favorable federal income tax treatment and (2) writing (selling) stock index call options with respect to a

portion of its common stock
portfolio value.^

Eaton Vance, a registered investment adviser under the Investment Advisers Act of 1940 (Advisers Act), acts as the Current Funds investment adviser and administrator. Each Fund will be advised by an Investment Adviser that is registered under the Advisers Act. Eaton Vance ^ and other Investment Advisers currently serve^ as ^ investment ^ advisers to investment companies and various individual and institutional clients with combined assets under management of approximately $155.8 billion as of July 31, 2008. ^ Eaton Vance is a wholly-owned subsidiary of Eaton Vance Corp., a publicly-held holding company traded on the New York Stock Exchange, which through its subsidiaries and affiliates engages primarily in investment management, administration and marketing activities.^

II. Relief Requested

Section 19(b) of the Act provides that it shall be unlawful in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors for any registered investment company to distribute long-term capital gains, as defined in the Internal Revenue Code of 1986 (the Code), more often than once every twelve months. Rule 19b-1 under the Act provides that no registered investment company which is a regulated investment company as defined in Section 851 of the Code shall distribute more than (i) one capital gain dividend, as defined in Section 852(b)(3)(C) of the Code, in any one taxable year of the company, (ii) one additional capital gain distribution made in whole or in part to avoid payment of excise tax under Section 4982 of the Code plus (iii) one supplemental clean-up capital gain dividend pursuant to Section 855 of the Code, which amount may not exceed 10% of the ^ aggregate amount distributed for such taxable year.

The Applicants believe that Rule 19b-1 should be interpreted to permit each Fund to make an unlimited number of distributions on its common and preferred ^ shares so long as it makes the designation necessary under the Code and Rule 19b-1 to transform such distributions into capital gain dividends restricted by Rule 19b-1 only as often as is permitted by Rule 19b-1, even if the Code would then require retroactively spreading the capital gain resulting from such designation over more than the identified number of distributions. ^ However, in order to obtain certainty for the Funds proposed distribution policies, in the absence of such an interpretation Applicants hereby request an order pursuant to Section 6(c) of the Act granting an exemption from Section 19(b) of the Act and Rule 19b-1 thereunder to permit each Fund to make periodic long-term capital gains distributions (as ^ described in Section 852(b)(3)(C) of the Code) as often as monthly in any one taxable year in respect of its common ^ shares and as often as specified by or determined in accordance with the terms thereof in respect of the Fund s preferred ^ shares.

In addition to the foregoing, although Applicants do not currently contemplate implementing a specified periodic payments policy for the preferred ^ shares of the ^ Funds, they may wish to do so in the future. ^ To retain this flexibility and avoid having to seek additional exemptive relief in the future, Applicants also request relief pursuant to Section 6(c) of the Act from the provisions of Section 19(b) of the Act and Rule 19b-1 thereunder to permit each Fund ^ to make periodic long-term capital gains distributions (as ^ described in Section 852(b)(3)(C) of the Code) on any series of its preferred ^ shares. Such distributions would be made as often as ^ are specified in or pursuant to the terms of such series so long as ^ the Fund maintains in effect a distribution policy with regard to such series of its preferred ^ shares of a specific percentage of liquidation preference of such series of preferred ^ shares, whether such specified percentage is

determined at the time the preferred ^ shares are initially issued, pursuant to periodic remarketing or auctions or otherwise. ^ The proposed distribution policy for the common ^ shares and specified periodic payment policy adopted in the future for the preferred ^ shares of the Funds are each hereinafter referred to as the Distribution Policy.

III. Representations of the Applicants

Applicants make the following representations regarding the requested relief:

Prior to its meetings for each of the Current Funds on ^February 9, 2009, the Board of Trustees (Board) of each of the Current Funds, including a majority of the members who are not interested persons of the Current Funds as defined in Section 2(a)(19) of the Act (the Independent Trustees), requested, and Eaton Vance provided, such information as was reasonably necessary to an informed determination of whether the Boards should adopt a proposed Distribution Policy. In particular, the Boards and the Independent Trustees reviewed information regarding the purpose and terms of a proposed Distribution Policy, the likely effects of such policy on the Current Funds long-term total return (in relation to market price and net asset value per common share (NAV) and the relationship between the Current Funds distribution rate on their common shares under the policy and the Current Funds total return (in relation to ^ NAV); whether the rate of distribution would exceed the Current Funds expected total return in relation to its ^ NAV; and any foreseeable material effects of such policy on the Current Funds long-term total return (in relation to market price and ^ NAV). The Independent Trustees also considered what conflicts of interest Eaton Vance and the affiliated persons of Eaton Vance and the Current Funds might have with respect to the adoption or implementation of such policy. After considering such information the Boards, including the Independent Trustees, of the Current Funds approved a distribution policy and related plan with respect to the Current Funds common shares (the Plan) and determined that such Plan is consistent with the

Current Funds investment objectives and in the best interests of the Current Funds common shareholders.

The purpose of the Plan of each Current Fund is to permit the Current Funds to distribute over the course of each year, through periodic distributions as nearly equal as practicable and any required special distributions, an amount closely approximating the total taxable income of the Current Funds during such year and, if so determined by their Boards, all or a portion of the returns of capital paid by portfolio companies to the Current Funds during such year. Under the Plan, the Current Funds would distribute to their common shareholders a fixed monthly percentage of the market price of the Current Funds common shares at a particular point in time or a fixed monthly percentage of ^ NAV at a particular time or a fixed monthly amount, any of which may be adjusted from time to time. Under the Plan, the minimum annual distribution rate with respect to the Current Funds common shares would be independent of the Current Funds performance during any particular period but would be expected to correlate with the Current Funds performance over time. Except for extraordinary distributions and potential increases or decreases in the final dividend periods in light of the Current Funds performance for the entire calendar year and to enable the Current Funds to comply with the distribution requirements of Subchapter M of the Code for the calendar year, each distribution on the common shares would be at the stated rate then in effect.

At the same meeting, each Board adopted policies and procedures under Rule 38a-1 that:

(i) are reasonably designed to ensure that all notices required to be sent to the Current Funds shareholders pursuant to Section 19(a) of the Act, Rule 19a-1 thereunder and condition 4 below (each a 19(a) Notice) include the disclosure required by Rule 19a-1 and by condition 2(a) set forth in Part V below, and that all other written

communications by the Current Funds or ^ their agents described in condition 3(a) set forth in Part V below about the distributions under the Plan include the disclosure required by condition 3(a) below; and

(ii) require the Current Funds to keep records that demonstrate compliance with all of the conditions of the Order and that are necessary for the Current Funds to form the basis for, or demonstrate the calculation of, the amounts disclosed in ^ their 19(a) Notices.

The records of the actions of the Boards of Trustees of the Current Funds summarize the basis for their approval of the Plans, including their consideration of the factors described above. Such records will be maintained for a period of at least six years from the date of such meeting, the first two years in an easily accessible place, or for such longer period as may otherwise be required by law.

In order to rely on the Order a future Fund must satisfy each of the foregoing representations except that such representations will be made in respect of actions by the board of trustees of such future Fund and will be made at a future time and except that the purpose of its distribution policy may differ from the purpose of the Current Funds Plans in that such distribution policy may be to distribute a fixed amount or a fixed percentage of net asset value or net asset value per share without regard to the level of income, appreciation or total return of such Fund over particular series of dividend periods or with regard to only one or a combination of such elements over such period of time and may exclude reference to distributions of capital received from portfolio companies. Notwithstanding the foregoing, under any such distribution policy such future Fund would expect that its distributions would correlate with its total return

over time plus, if applicable, distributions of capital received from such future Fund s portfolio companies.

IV. Justification for the Requested Relief

Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons set forth below, Applicants submit that the requested exemption from Section 19(b) of the Act and Rule 19b-1 thereunder would be consistent with the standards set forth in Section 6(c) of the Act and in the best interests of the Applicants and their respective shareholders.

1. *Receipt of the Order would serve shareholder interests.*

Applicants believe that the shareholders of the Current Funds are generally conservative, dividend-sensitive investors who desire current income periodically and may favor a fixed distribution policy. ^ Based on discussions at Board meetings, the Boards of the Current Funds determined that investors in the common shares of the Current Funds may prefer an investment vehicle that provides monthly distributions and a steady cash flow.

An exemption from Rule 19b-1 would benefit shareholders in another way. Common shares of closed-end funds that invest primarily in equity securities often trade in the marketplace at a discount to their ^ NAV. In the view of the Applicants, this discount may be reduced if the Funds are permitted to pay relatively frequent dividends on their common shares at a consistent rate, whether or not those dividends contain an element of long-term capital gain. Such a reduction in discount would benefit the Funds common shareholders along with the Funds.

2. *Each Fund s shareholders would receive information sufficient to clearly inform them of the nature of the distributions they are receiving.*

One of the concerns leading to the enactment of Section 19(b) and adoption of Rule 19b-1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income.[4] However, Rule 19a-1 under the Act effectively addresses this concern by requiring that distributions (or the confirmation of the reinvestment thereof) estimated to be sourced in part from capital gains or capital be accompanied by a separate statement showing the sources of the distribution (e.g., estimated net income, net short-term capital gains, net long-term capital gains and/or return of capital). The same information is included in the Current Funds annual reports to shareholders and on IRS Form 1099-DIV, which is sent to each common and preferred shareholder who received distributions during a particular year (including shareholders who have sold shares during the year).

In addition, each Fund will make the additional disclosures required by the conditions set forth in Part V below, and the Current Funds have adopted compliance policies and procedures in accordance with Rule 38a-1 under the Act to ensure that all required notices and disclosures are sent to shareholders.

Rule 19a-1, the Plans and the compliance policy and procedures ensure that each Fund s shareholders would be provided sufficient information to understand that periodic distributions are not tied to the Fund s net investment income (which for this purpose is the Fund s taxable income other than from capital gains) and realized capital gains to date, and may not represent yield or investment return. Accordingly, continuing to subject the Funds to Section 19(b) and Rule 19b-1 would afford shareholders no extra protection. In addition, the Funds will undertake

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4 *See* Securities and Exchange Commission 1966 Report to Congress on Investment Company Growth (H.R. Rep. No. 2337, 89th Cong., 2d Sess. 190-95 (1966)); S. Rep. No. 91-184, 91st Cong., 1st Sess. 29 (1969); H.R. Rep. No. 91-1382, 91st Cong., 2d Sess. 29 (1970) (the Report).

to request intermediaries to forward 19(a) Notices to their customers and to reimburse them for the costs of forwarding. Such forwarding may occur in any manner permitted by statute, rule, order or the staff.

3. *Under certain circumstances, Rule 19b-1 gives rise to improper influence on portfolio management decisions, with no offsetting benefit to shareholders.*

Rule 19b-1, when applied to a Plan, actually gives rise to one of the concerns that Rule 19b-1 was intended to avoid: undesirable influence on portfolio management decisions. Funds that pay long-term capital gains distributions only once per year in accordance with Rule 19b-1 impose no pressure on management to realize capital gains at any time when purely investment considerations do not dictate doing so. In the absence of an exemption from Rule 19b-1, the adoption of a periodic distribution plan imposes pressure on management (i) not to realize any net long-term capital gains until the point in the year that the fund can pay all of its remaining distributions in accordance with Rule 19b-1 and (ii) not to realize any long-term capital gains during any particular year in excess of the amount of the aggregate pay-out for the year (since as a practical matter excess gains must be distributed and accordingly would not be available to satisfy pay-out requirements in following years), notwithstanding that purely investment considerations might favor realization of long-term gains at different times or in different amounts.

No purpose is served by the distortion in the normal operation of a periodic distribution plan required in order to comply with Rule 19b-1. There is no reason or logic in requiring any fund that adopts a periodic distribution plan either to retain (and pay taxes on) long-term capital gains (with the resulting additional tax return complexities for the fund s shareholders) or to avoid designating its distributions of long-term gains as capital gains dividends for tax purposes (thereby avoiding a Rule 19b-1 problem but providing distributions taxable at ordinary income

rates rather than the much lower long-term capital gains rates and being required to pay income tax on the amount of such income). The desirability of avoiding these anomalous results creates pressure to limit the realization of long-term capital gains that otherwise would be taken for purely investment considerations.

The Order requested by the Applicants would minimize these anomalous effects of Rule 19b-1 by enabling the Funds to realize long-term capital gains as often as investment considerations dictate without fear of violating Rule 19b-1.

4. *Other concerns leading to adoption of Rule 19b-1 are not applicable.*

Another concern that led to the enactment of Section 19(b) of the Act and adoption of Rule 19b-1 was that frequent capital gains distributions could facilitate improper fund share sales practices, including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming capital gains dividend (selling the dividend), where the dividend would result in an immediate corresponding reduction in ^ NAV and would be in effect a taxable return of the investor s capital. Applicants submit that this concern should not apply to closed-end investment companies, such as the ^ Funds, which do not continuously distribute shares. Furthermore, if the underlying concern extends to secondary market purchases of shares of a closed-end fund that are subject to a large upcoming capital gains dividend, adoption of a periodic distribution plan actually helps minimize the concern by avoiding, through periodic distributions, any buildup of large end-of-the-year distributions.

The Applicants also submit that the selling the dividend concern is not applicable to preferred ^ shares, which entitle^ a holder to no more than a specified periodic dividend and, like ^ debt ^ securities, are initially sold at a price based upon ^ their liquidation preference, credit quality, dividend rate and frequency of payment. Investors buy preferred ^ shares for the purpose of receiving specific payments at the frequency bargained for, and any application of

Rule 19b-1 to preferred ^ shares would be contrary to the expectation of investors. There is also currently a tax rule that provides that any loss attributable to a long-term capital gain realized within six months prior to the incurrence of the loss must be treated as a long-term capital loss to avoid the selling of dividends.

5. *Further limitations of Rule 19b-1.*

Subparagraphs (a) and (f) of Rule 19b-1 limit the number of capital gains dividends, as defined in Section 852(b)(3)(C) of the Code, that a fund may make with respect to any one taxable year to one, plus a supplemental clean-up distribution made pursuant to Section 855 of the Code not exceeding 10% of the total amount distributed for the year, plus one additional capital gain dividend made in whole or in part to avoid the excise tax under Section 4982 of the Code.

Applicants assert that by limiting the number of capital gain dividends that a fund may make with respect to any one year, Rule 19b-1 may prevent the normal and efficient operation of a periodic distribution plan whenever that fund s realized net long-term capital gains in any year exceed the total of the periodic distributions that may include such capital gains under the Rule. Rule 19b-1 thus may force the fixed regular periodic distributions to be funded with returns of capital[5] (to the extent net investment income and realized short term capital gains are insufficient to fund the distribution), even though realized net long term capital gains otherwise would be available. To distribute all of a fund s long-term capital gains within the limits in Rule 19b-1, a fund may be required to make total distributions in excess of the annual amount called for by its periodic distribution plan or to retain and pay taxes on the excess amount. Applicants believe that

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5 These would be returns of capital for financial accounting purposes and not for tax accounting purposes.

the application of Rule 19b-1 to a fund s periodic distribution plan may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

Revenue Ruling 89-81 under the Code requires that a fund that seeks to qualify as a regulated investment company under the Code and that has both common ^ shares and preferred ^ shares outstanding designate the types of income, e.g., investment income and capital gains, in the same proportion as the total distributions distributed to each class for the tax year. To satisfy the proportionate designation requirements of Revenue Ruling 89-81, whenever a fund has realized a long term capital gain with respect to a given tax year, the fund must designate the required proportionate share of such capital gain to be included in common and preferred ^ share dividends. Although Rule 19b-1 allows a fund some flexibility with respect to the frequency of capital gains distributions, a fund might use all of the exceptions available under Rule 19b-1 for a tax year and still need to distribute additional capital gains allocated to the preferred ^ shares to comply with Revenue Ruling 89-81.

The potential abuses addressed by Section 19(b) and Rule 19b-1 do not arise with respect to preferred ^ shares issued by a closed-end fund. Such distributions are either fixed or are determined in periodic auctions by reference to short-term interest rates rather than by reference to performance of the issuer, and Revenue Ruling 89-81 determines the proportion of such distributions that are comprised of the long-term capital gains.

Applicants also submit that the selling the dividend concern is not applicable to preferred ^ shares, which entitle^ a holder to no more than a periodic dividend at a fixed rate or the rate determined by the market, and, like ^ debt ^ securities, are priced based upon ^ their liquidation value, dividend rate, credit quality, and frequency of payment. Investors buy

preferred ^ shares for the purpose of receiving payments at the frequency bargained for and do not expect the liquidation value of their shares to change.

The proposed Order will assist the Funds in avoiding these Rule 19b-1 problems.

6. *General*

The relief requested is that the Commission permit the Funds to make periodic distributions in respect of their common shares as often as monthly and in respect of their preferred shares as specified by or determined in accordance with the terms thereof. Granting this relief would provide the ^ Funds with flexibility in meeting investor interest in receiving more frequent distributions. By reducing the amount of individual periodic distributions even further, implementation of the additional relief would actually ameliorate the concerns that gave rise to Section 19(b) and Rule 19b-1 and help avoid the selling of dividends problem, which Section 19(b) and Rule 19b-1 are not effective in preventing.

The potential issues under Rule 19b-1 are basically not relevant to distributions on preferred shares. Not only are such distributions fixed or determined in periodic auctions or remarketings by reference to short-term interest rates rather than by reference to performance of the issuer but also the long-term capital gain component is mandated by the Internal Revenue Service to be the same proportion as the proportion of long-term gain dividends bears to the total distributions in respect of the common shares and consequently the long-term gain component cannot even be known until the last dividend of the year. In these circumstances it would be very difficult for any of the potential abuses reflected in Rule 19b-1 s restrictions to occur.

In summary, Rule 19b-1 in the circumstances referred to above distorts the effective and proper functioning of the Funds distributions and gives rise to the very pressures on portfolio management decisions that Rule 19b-1 was intended to avoid. These distortions forced by Rule 19b-1 serve no purpose and are not in the best interests of shareholders.

V. Applicants Conditions

Applicants agree that, with respect to each Fund seeking to rely on the Order, the Order will be subject to the following conditions:

1. *Compliance Review and Reporting*

^ Each Fund s chief compliance officer will (a) report to the Fund s Board, no less frequently than once every three months or at the next regularly scheduled quarterly Board meeting, whether (i) the Fund and ^ its Investment Adviser have complied with the conditions of the Order and (ii) a material compliance matter (as defined in Rule 38a-1(e)(2) under the Act) has occurred with respect to such conditions; and (b) review the adequacy of the policies and procedures adopted by the Board no less frequently than annually.

2. *Disclosures to Fund Shareholders*

(a) Each ^ 19(a) Notice disseminated to the holders of the Fund s common shares, in addition to the information required by Section 19(a) and Rule 19a-1: Will provide, in a tabular or graphical format:

(1) the amount of the distribution, on a per share basis, together with the amounts of such distribution amount, on a per share basis and as a percentage of such distribution amount, from estimated: (A) net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(2) the fiscal year-to-date cumulative amount of distributions, on a per share basis, together with the amounts of such cumulative amount, on a per share basis and as a percentage of such cumulative amount of distributions, from estimated: (A) net investment income; (B) net realized short-term capital gains;

(C) net realized long-term capital gains; and (D) return of capital or other capital source;

(3) the average annual total return in relation to the change in ^ NAV^ for the 5-year period (or, if the Fund s history of operations is less than five years, the time period commencing immediately following the Fund s first public offering) ending on the last day of the month ended immediately prior to the most recent distribution ^ record date compared to the current fiscal period s annualized distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution ^ record date; and

(4) the cumulative total return in relation to the change in NAV from the last completed fiscal year to the last day of the month prior to the most recent distribution ^ record date compared to the fiscal year-to-date cumulative distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution ^ record date.

^ Such disclosure shall be made in a type size at least as large and as prominent as the estimate of the sources of the current distribution; and

(ii) will include the following disclosure:

(1) You should not draw any conclusions about the Fund s investment performance from the amount of this distribution or from the terms of the Fund s Plan ;

(2) The Fund estimates that it has distributed more than its income and net realized capital gains; therefore, a portion of your distribution may be a return of capital. A return of capital may occur, for example, when some or all of

the money that you invested in the Fund is paid back to you. A return of capital distribution does not necessarily reflect the Fund s investment performance and should not be confused with yield or income.[6] ^and ^; ^

The amounts and sources of distributions reported in this 19(a) Notice are only estimates and are not being provided for tax reporting purposes. The actual amounts and sources of the amounts for ^[accounting and] tax reporting purposes will depend upon the Fund s investment experience during the remainder of its fiscal year and may be subject to changes based on tax regulations. The Fund will send you a Form 1099-DIV for the calendar year that will tell you how to report these distributions for federal income tax purposes. ^ Such disclosure shall be made in a type size at least as large as and as prominent as any other information in the 19(a) Notice and placed on the same page in close proximity to the amount and the sources of the distribution;

(b) On the inside front cover of each report to shareholders under Rule 30e-1 under the Act, the Fund will:

(i) describe the terms of the Plan (including the fixed amount or fixed percentage of the distributions and the frequency of the distributions);

(ii) include the disclosure required by condition 2(a)(ii)(1) above;

(iii) state, if applicable, that the Plan provides that the Board may amend or terminate the Plan at any time without prior notice to Fund shareholders; and

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6 The disclosure in this condition 2(a)(ii)(2) will be included only if the current distribution or the fiscal year-to- date cumulative distributions are estimated to include a return of capital.

(iv) describe any reasonably foreseeable circumstances that might cause the Fund to terminate the Plan and any reasonably foreseeable consequences of such termination^ .

(c) Each report provided to shareholders under Rule 30e-1 under the Act and each prospectus filed with the Commission on Form N-2 under the Act, will provide the Fund s total return in relation to changes in NAV in the financial highlights table and in any discussion about the Fund s total return.

3. *Disclosure to Shareholders, Prospective Shareholders and Third Parties*

(a) ^ Each Fund will include the information contained in the relevant 19(a) Notice, including the disclosure required by condition 2(a)(ii) above, in any written communication (other than a communication on Form 1099) about the Plan or distributions under the Plan by the Fund, or agents that the Fund has authorized to make such communication on the Fund s behalf, to any Fund common shareholder, prospective common shareholder or third-party information provider;

(b) ^ Each Fund will issue, contemporaneously with the issuance of any ^ 19(a) Notice^ , a press release containing the information in the 19(a) Notice and file with the Commission the information contained in such 19(a) Notice, including the disclosure required by condition 2(a)(ii) above, as an exhibit to its next filed Form N-CSR; and

(c) Each ^ Fund will ^ post prominently a statement on its (or ^ the Investment Adviser s) web site containing the information ^ in each 19(a) Notice, including the disclosure required by condition 2(a)(ii) above^ , and will maintain such information on such web site for at least 24 months.

4. *Delivery of 19(a) Notices to Beneficial Owners*

If a broker, dealer, bank or other person (financial intermediary) holds common ^ shares issued by the Fund in nominee name, or otherwise, on behalf of a beneficial owner, the Fund: (a) will request that the financial intermediary, or its agent, forward the 19(a) Notice to all beneficial owners of the Fund s shares held through such financial intermediary; (b) will provide, in a timely manner, to the financial intermediary, or its agent, enough copies of the 19(a) Notice assembled in the form and at the place that the financial intermediary, or its agent, reasonably requests to facilitate the financial intermediary s sending of the 19(a) Notice to each beneficial owner of the Fund s shares; and (c) upon the request of any financial intermediary, or its agent, that receives copies of the 19(a) Notice, will pay the financial intermediary, or its agent, the reasonable expenses of sending the 19(a) Notice to such beneficial owners.

5. *Special Board Review for Funds Whose Common ^ Shares Trade at a Premium*

^ If:

(a) The Fund s common shares have traded on the stock exchange that they primarily trade on at the time in question at an average premium to NAV equal to or greater than 10%, as determined on the basis of the average of the discount or premium to NAV of the Fund s common shares as of the close of each trading day over a 12-week rolling period (each such 12-week rolling period ending on the last trading day of each week); and

(b) The Fund s annualized distribution rate for such 12-week rolling period, expressed as a percentage of NAV as of the ending date of such 12-week rolling period is greater than the Fund s average annual total return in relation to the change in NAV over the 2-year period ending on the last day of such 12-week rolling period;

then:

(i) At the earlier of the next regularly scheduled meeting or within four months of the last day of such 12-week rolling period, the Board including a majority of the Independent Trustees:

(1) will request and evaluate, and the Fund s ^ Investment Adviser will furnish, such information as may be reasonably necessary to make an informed determination of whether the Plan should be continued or continued after amendment;

(2) will determine whether continuation, or continuation after amendment, of the Plan is consistent with the Fund s investment objective(s) and policies and is in the best interests of the Fund and its shareholders, after considering the information in condition 5(b)(i)(1) above; including, without limitation:

(A) whether the Plan is accomplishing its purpose(s);

(B) the reasonably foreseeable material effects of the Plan on the Fund s long-term total return in relation to the market price and NAV of the Fund s common shares; and

(C) the Fund s current distribution rate, as described in condition 5(b) above, compared with the Fund s average annual taxable income or total return over the 2-year period, as described in condition 5(b), or such longer period as the Board deems appropriate; and

(3) based upon that determination, will approve or disapprove the continuation, or continuation after amendment, of the Plan; and

(ii) The Board will record the information considered by it, including its consideration of the factors listed in condition 5(b)(i)(2) above, and the basis for its approval or disapproval of the continuation, or continuation after amendment, of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place.

6. *Public Offerings*

The Fund will not make a public offering of the Fund s common shares other than:

(a) a rights offering below NAV to holders of the Fund s common shares;

(b) an offering in connection with a dividend reinvestment plan, merger, consolidation, acquisition, spin off or reorganization of the Fund; or

(c) an offering other than an offering described in conditions 6(a) and 6(b) above, provided that, with respect to such other offering:

(i) the Fund s average annual distribution rate for the six months ending on the last day of the month ended immediately prior to the most recent distribution ^ record date[7], expressed as a percentage of NAV ^ as of such date, is no more than 1 percentage point greater than the Fund s average annual total return for the 5-year period ending on such date[8]; and

(ii) the transmittal letter accompanying any registration statement filed with the Commission in connection with such offering discloses that the Fund has received an order under Section 19(b) to permit it to make periodic distributions of long-term capital gains with respect to its common ^ shares as frequently as twelve times each year, and as

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7 ^ If the Fund has been in operation fewer than ^ six months, the measured period will begin immediately following the Fund s first public offering.

8 If the Fund has been in operation fewer than ^ five years, the measured period will begin immediately following the Fund s first public offering.^

frequently as distributions are specified by or determined in accordance with the terms of any outstanding preferred ^ shares as such Fund may issue.

7. *Amendments to Rule 19b-1*

The requested order will expire on the effective date of any amendments to Rule 19b-1 that provide relief permitting certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common ^ shares as frequently as twelve times each year.

VI. Applicable Precedent

The Commission has granted relief substantially the same as that sought here on several occasions.[9]^

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^ VII. Procedural Compliance

At meetings duly held in September 2004, December 2004, February 2005, April 2005, December 2006 and April 2007 the Boards of the Current Funds adopted the following resolutions authorizing the execution and filing of this Application (which, as defined below, includes all amendments to the initial filing).

RESOLVED, that the President, any Vice President, the Treasurer the Secretary, and any Assistant Secretary of the Fund be, and each of them acting singly hereby is authorized, in the name and on behalf of the Fund, to prepare, execute and file with the Securities and Exchange Commission an application or applications and any exhibits and amendments thereto (the Application) for the Fund and other investment companies pursuant to Section 6(c) of the Act for an order granting exemptions from the provisions of Section 19(b) of and Rule 19b-1 under the Act, permitting the Fund to make as many capital gains distributions in any taxable year as may be necessary for the Fund to implement its

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9 *See*, *e.g.,* Calamos Convertible Opportunities and Income Fund, *et al*. (SEC File No. 812-13063); ^ John Hancock Income Securities Trust, et al. (SEC File No. 13357); and ING Clarion Real Estate Income Fund, *et al*. (SEC File No. 812-13074).

managed, fixed distribution policy, and any other sections of the Act and the Rule thereunder, as any such officer of the Fund shall deem necessary or appropriate to conduct the Fund s business.

FURTHER RESOLVED, that the President, any Vice President, the Treasurer, the Secretary and any Assistant Secretary of the Fund be, and each of them acting singly hereby is, authorized to execute and cause to be filed the application and to take such further actions and execute and file such further amendments or other documents as may be necessary, desirable or appropriate to the implementation and performance of the preceding resolution and the matters contemplated therein, their execution thereof to be conclusive evidence of such approval.

^ Pursuant to Rule 0-2(c) under the Act, each Applicant hereby states that the person signing and filing this Application on its behalf is fully authorized to do so, that under the provisions of the Articles of Incorporation or the Declaration of Trust, as the case may be, of such Applicant responsibility for the management of the affairs of such Applicant is vested in its Board, and that such Applicant has complied with all requirements for the execution and filing of this Application in its name and on its behalf.

^ These verifications required by Rule 0-2(d) are attached to this Application as Exhibit A.^ Pursuant to Rule 0-2(f) under the Act, the Applicants further state that:

1. (a) The address of each of the Applicants is as follows:

The Eaton Vance Building
255 State Street
Boston, Massachusetts 02109

2. Any questions regarding this Application should be directed to:

Frederick S. Marius
The Eaton Vance Building
255 State Street
Boston, Massachusetts 02109

and

Diane E. Ambler
K&L Gates LLP
1601 K Street NW
Washington, DC 20006
(202) 778-9886
(202) 778-9100 (fax)

^ VIII.Conclusion

On the basis of the foregoing, the Applicants respectfully request that the Commission enter an order pursuant to Section 6(c) of the Act exempting the ^ Funds from the provisions of Section 19(b) of the Act and Rule 19b-1 thereunder to permit each Fund to make distributions on its common shares consisting in whole or in part of capital gain dividends as frequently as once per month so long as it complies with the conditions of the Order and maintains in effect a distribution policy with respect to its common shares calling for periodic distributions of an amount equal to a fixed amount per share, a fixed percentage of market price per share or a fixed percentage of such Fund s ^ NAV. In addition, the Applicants also request relief to permit each Fund^ to make periodic long-term capital gains distributions on any series of preferred shares so long as the Fund ^ maintains in effect a distribution policy with regard to such series of its preferred shares of a specific percentage of liquidation preference of such series of preferred shares, whether such specified percentage is determined at the time the preferred shares are initially issued, pursuant to periodic remarketing or auctions or otherwise.

^

EATON VANCE ENHANCED EQUITY INCOME FUND

By:
Name:
Title:

EATON VANCE ENHANCED EQUITY INCOME FUND II

By:
Name:
Title:

EATON VANCE RISK-MANAGED DIVERSIFIED EQUITY INCOME FUND

By:
Name:
Title:

EATON VANCE TAX-MANAGED BUY-WRITE INCOME FUND

By:
Name:
Title:

EATON VANCE TAX-MANAGED BUY-WRITE OPPORTUNITIES FUND

By:
Name:
Title:

EATON VANCE TAX-MANAGED DIVERSIFIED EQUITY INCOME FUND

By:
Name:
Title:

EATON VANCE TAX-MANAGED GLOBAL BUY-WRITE OPPORTUNITIES FUND

By:
Name:
Title:

EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FUND

By:
Name:
Title:

EATON VANCE MANAGEMENT

By:
Name:
Title:

Dated ^ January 9, 2009
^

EXHIBIT INDEX

EXHIBIT A

VERIFICATION

^

The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance ^ Enhanced Equity Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE ENHANCED EQUITY INCOME FUND

By:^
Name:^
Title:^

EXHIBIT B

VERIFICATION

^

The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance ^ Enhanced Equity Income Fund II (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE ENHANCED EQUITY INCOME FUND II

By:^
Name:^
Title:^

^
^

EXHIBIT C

VERIFICATION

^

The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance ^ Risk-Managed Diversified Equity Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE RISK-MANAGED DIVERSIFIED EQUITY INCOME FUND

By:^
Name:^
Title:^

^

EXHIBIT D

VERIFICATION

^ The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance ^ Tax-Managed ^ Buy-Write Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE TAX-MANAGED BUY-WRITE INCOME FUND

By: ^
Name:^
Title:^

^

EXHIBIT E

VERIFICATION

^ The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Tax-Managed ^ Buy-Write Opportunities Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE TAX-MANAGED BUY-WRITE OPPORTUNITIES FUND

By: ^
Name:^
Title:^

^

EXHIBIT F

VERIFICATION

^ The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Tax-Managed ^ Diversified Equity Income Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE TAX-MANAGED DIVERSIFIED EQUITY INCOME FUND

By: ^
Name:^
Title:^

^

EXHIBIT G

VERIFICATION

^ The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance ^ Tax-Managed Global Buy-Write Opportunities Fund (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE TAX-MANAGED GLOBAL BUY-WRITE OPPORTUNITIES FUND

By:^
Name:^
Title:^

^

EXHIBIT H

VERIFICATION

^ The undersigned ^ states that she has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance ^ Tax-Managed Global Diversified Equity Income Fund^ (the Trust); that she is the Secretary and Chief Legal Officer of the Trust; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that she is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of her knowledge, information^ and belief.

^

EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FUND

By:^
Name:^
Title:^

^

EXHIBIT I

^ VERIFICATION

^ The undersigned ^ states that he has duly executed the attached amended Application, dated January 9, 2009, for and on behalf of Eaton Vance Management (Eaton Vance); that he is the Vice President, Secretary and Chief Legal Officer of Eaton Vance; and that all action^ by stockholders, trustees, and other bodies necessary to authorize ^ the undersigned to execute and file such ^ instrument has been taken. ^ The undersigned further ^ states that he is familiar with ^ such instrument, and the contents thereof, and that the facts therein set forth ^ are true to the best of his knowledge, information^ and belief.

EATON VANCE MANAGEMENT

By:

Name:

Title:

^

, Serif">

We expect that we will need additional financing to support our long-term plans for clinical trials and new product development. We expect to finance our cash needs through the sale of equity securities, strategic collaborations and/or debt financings, or through other sources that may be dilutive to existing stockholders. There can be no assurance that we will be able to obtain funding from any of these sources or, if obtained, what the terms of such funding(s) may be, or that any amount that we are able to obtain will be adequate to support our working capital requirements until we achieve profitable operations. We have no current committed sources of additional capital. Recently, capital markets have experienced a period of instability that may severely hinder our ability to raise capital within the time periods needed or on terms we consider acceptable, if at all. If we are unable to raise additional funds when needed, we may not be able to continue development and regulatory approval of our products, or we could be required to delay, scale back or eliminate some or all our research and development programs.

The following table summarizes our net increase (decrease) in cash and cash equivalents for the six months ended June 30, 2012 and 2011:

	Six months ended June 30,	
	2012	2011
($ in thousands)		
Net cash provided by (used in):		
Operating activities	$(42,625)	$(13,989)
Investing activities	(1,107)	(392)
Financing activities	49,410	84,271
Net increase in cash and cash equivalents	$5,678	$69,890

Net cash used in operating activities was $42.6 million for the six months ended June 30, 2012 compared to $14.0 million for the six months ended June 30, 2011. The $28.6 million increase was due to an increase in prepaid expenses and other current assets attributable to a related party prepayment (see Note 6), as well as an increase in the net loss from operations, caused by increased research and development activities, excluding non-cash expenses of the change in fair value of warrants, stock-based compensation, and in process research and development.

Net cash used in investing activities was $1.1 million for the six months ended June 30, 2012 compared to $0.4 million for the six months ended June 30, 2011. The increase was due to build out of additional space in the Boston office including leasehold improvements and furniture and fixtures along with software additions.

Net cash provided by financing activities was $49.4 million for the six months ended June 30, 2012 compared to $84.3 million for the six months ended June 30, 2011. The change is primarily attributable to a $49.2 million financing that occurred during the first six months of 2012 versus a $71.2 million financing and warrant exercises of $12.3 million that occurred during the first six months of 2011.

Operating capital and capital expenditure requirements

We anticipate that losses will continue for the foreseeable future. At June 30, 2012, our accumulated deficit was approximately $235.7 million. Our actual cash requirements may vary materially from those planned because of a number of factors including:

- Changes in the focus, direction and pace of our development programs;
- Competitive and technical advances;
- Internal costs associated with the development of palifosfamide and indibulin and our ability to secure further financing for darinaparsin development from a partner;
- Costs of filing, prosecuting, defending and enforcing any patent claims and any other intellectual property rights, or other developments; and
- Other matters identified under Part II – Item 1A. “Risk Factors” below.

Working capital as of June 30, 2012 was $101.6 million, consisting of $119.4 million in current assets and $17.8 million in current liabilities. Working capital as of December 31, 2011 was $92.7 million, consisting of $106.1 million in current assets and $13.4 million in current liabilities.

Contractual obligations

The following table summarizes our outstanding obligations as of June 30, 2012 and the effect those obligations are expected to have on our liquidity and cash flows in future periods:

($ in thousands)	Total	Less than 1 year	2 - 3 years	4 - 5 years	More than 5 years
Operating leases	$6,073	$ 1,096	$ 2,432	$ 1,866	$ 679
Royalty and license fees	1,650	275	550	550	275
Contract milestone payments	25,579	15,454	10,125	-	-

Total	$33,302	$ 16,825	$ 13,107	$ 2,416	$ 954

Our commitments for operating leases relate to the lease for our corporate headquarters in New York, New York, our operations center in Boston, Massachusetts and office space in Germantown, Maryland. Our commitments for royalty and license fees relate to our patent agreement with Baxter Healthcare Corporation and our royalty agreements with Southern Research Institute and Baxter Healthcare Corporation requiring minimum royalty payments. The contract milestone payments relate to our CRO agreements with PPD Development, L.P and Pharmaceutical Research Associates, Inc. The timing of the remaining contract milestone payments are dependent upon factors that are beyond our control, including our ability to recruit patients, the outcome of future clinical trials and any requirements imposed on our clinical trials by regulatory agencies. However, for the purpose of the above table, we have assumed that the payment of the milestones will occur within five years of June 30, 2012. On July 16, 2012, we decided to close our Germanton, Maryland office (see Subsequent Events). Our operating lease commitment for the Germantown, Maryland office included in the above table is $50 thousand – less than 1 year and $39 thousand – 2-3 years.

Off-balance sheet arrangements

During the three and six months ended June 30, 2012 and 2011, we did not engage in any off-balance sheet arrangements.

Critical Accounting Policies and Estimates

In our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, our most critical accounting policies and estimates upon which our financial status depends were identified as those relating to stock-based compensation; net operating losses and tax credit carryforwards; and impairment of long-lived assets. We reviewed our policies and determined that those policies remain our most critical accounting policies for the six months ended June 30, 2012.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Our exposure to market risk is limited to our cash. The goals of our investment policy are preservation of capital, fulfillment of liquidity needs and fiduciary control of cash. We also seek to maximize income from our investments without assuming significant risk. To achieve our goals, we maintain our cash in interest-bearing bank accounts in global banks, U.S. treasuries and other government-backed investments, which are subject to minimal interest rate risk.

Item 4. Controls and Procedures

Our management, with the participation of our principal executive officer and principal financial officer, has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) or 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act) as of the end of the period covered by this report. Based on such evaluation, our principal executive officer and principal financial officer have concluded that, as of the end of such period, our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, on a timely basis, and is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure.

No change in our internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) occurred during the period covered by this quarterly report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Part II - Other Information

Item 1. Legal Proceedings

In the ordinary course of business, we may periodically become subject to legal proceedings and claims arising in connection with ongoing business activities. The results of litigation and claims cannot be predicted with certainty, and unfavorable resolutions are possible and could materially affect our results of operations, cash flows or financial position. In addition, regardless of the outcome, litigation could have an adverse impact on us because of defense costs, diversion of management resources and other factors.

While the outcome of these proceedings and claims cannot be predicted with certainty, there are no matters, as of June 30, 2012, that, in the opinion of management, might have a material adverse effect on our financial position, results of operations or cash flows.

Item 1A. Risk Factors

The following important factors could cause our actual business and financial results to differ materially from those contained in forward-looking statements made in this Quarterly Report on Form 10-Q or elsewhere by management from time to time. The risk factors in this report have been revised to incorporate changes to our risk factors from those included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011. The risk factors set forth below with an asterisk (*) next to the title are new risk factors or risk factors containing changes, which may be material, from the risk factors previously disclosed in Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, as filed with the Securities and Exchange Commission.

RISKS RELATED TO OUR BUSINESS

We will require additional financial resources in order to continue ongoing development of our product candidates; if we are unable to obtain these additional resources, we may be forced to delay or discontinue clinical testing of our product candidates.

We have not generated significant revenue and have incurred significant net losses in each year since our inception. For the six months ended June 30, 2012, we had a net loss of $48.1 million, and, as of June 30, 2012, we have

incurred approximately $235.7 million of cumulative net losses since our inception in 2003. We expect to continue to incur significant operating expenditures. Further development of our product candidates, including product candidates that we may develop under our channel partnering arrangement with Intrexon, will likely require substantial increases in our expenses as we:

- Continue to undertake clinical trials for product candidates;
- Scale-up the formulation and manufacturing of our product candidates;
- Seek regulatory approvals for product candidates;
- Implement additional internal systems and infrastructure; and
- Hire additional personnel.

We continue to seek additional financial resources to fund the further development of our product candidates. If we are unable to obtain sufficient additional capital, one or more of these programs could be placed on hold. Because we are currently devoting a significant portion of our resources to the development of palifosfamide and to synthetic biology, further progress with the development of our other candidates may be significantly delayed and may depend on the success of our ongoing clinical trial involving palifosfamide.

We have no current committed sources of additional capital. We do not know whether additional financing will be available on terms favorable or acceptable to us when needed, if at all. Our business is highly cash-intensive and our ability to continue operations after our current cash resources are exhausted depends on our ability to obtain additional financing and achieve profitable operations, as to which no assurances can be given. If adequate additional funds are not available when required, or if we are unsuccessful in entering into partnership agreements for the further development of our products, we will be required to delay, reduce or eliminate planned preclinical and clinical trials and may be forced to terminate the approval process for our product candidates from the FDA or other regulatory authorities. In addition, we could be forced to discontinue product development, forego attractive business opportunities or pursue merger or divestiture strategies. In the event we are unable to obtain additional financing, we may be forced to cease operations altogether.

We need to raise additional capital to fund our operations. The manner in which we raise any additional funds may affect the value of your investment in our common stock.

As of June 30, 2012, we had incurred approximately $235.7 million of cumulative net losses and had approximately $110.4 million of cash and cash equivalents. We anticipate that our cash resources will be sufficient to fund our operations into the second half of 2013. However, changes may occur that would consume our existing capital prior to that time, including expansion of the scope, and/or slower than expected progress of, our research and development efforts and changes in governmental regulation. Actual costs may ultimately vary from our current expectations, which could materially impact our use of capital and our forecast of the period of time through which our financial resources will be adequate to support our operations. We have estimated the sufficiency of our cash resources based in part on the trial design for our PICASSO 3 pivotal trial and our adaptive Phase 3 trial in first-line SCLC for IV palifosfamide and our current timing expectations for enrollment of the studies, which may change based on the progression of enrollment. We have also assumed responsibility for the advancement of two product candidates in the clinic under our exclusive channel partnership with Intrexon and we expect that the costs associated with these and additional product candidates will increase the level of our overall research and development expenses significantly going forward. Although our forecasts for expenses and the sufficiency of our capital resources takes into account our plans to develop the Intrexon products, we assumed development responsibility for these products on January 6, 2011 and the actual costs associated therewith may be significantly in excess of forecasted amounts.

In addition to above factors, our actual cash requirements may vary materially from our current expectations for a number of other factors that may include, but are not limited to, changes in the focus and direction of our development programs, competitive and technical advances, costs associated with the development of our product candidates, our ability to secure partnering arrangements, and costs of filing, prosecuting, defending and enforcing our intellectual property rights. If we exhaust our capital reserves more quickly than anticipated, regardless of the reason, and we are unable to obtain additional financing on terms acceptable to us or at all, we will be unable to proceed with development of some or all of our product candidates on expected timelines and will be forced to prioritize among them.

Recently, capital markets have experienced a period of unprecedented instability that may severely hinder our ability to raise capital within the time periods needed or on terms we consider acceptable, if at all. Moreover, if we fail to advance one or more of our current product candidates to later-stage clinical trials, successfully commercialize one or more of our product candidates, or acquire new product candidates for development, we may have difficulty attracting investors that might otherwise be a source of additional financing.

In the current economic environment, our need for additional capital and limited capital resources may force us to accept financing terms that could be significantly more dilutive to existing stockholders than if we were raising capital when the capital markets were more stable. To the extent that we raise additional capital by issuing equity securities, our stockholders may experience dilution. In addition, we may grant future investors rights superior to those of our existing stockholders. If we raise additional funds through collaborations and licensing arrangements, it may be necessary to relinquish some rights to our technologies, product candidates or products, or grant licenses on terms that

are not favorable to us. If we raise additional funds by incurring debt, we could incur significant interest expense and become subject to covenants in the related transaction documentation that could affect the manner in which we conduct our business.

Clinical trials are very expensive, time-consuming, and difficult to design and implement.

Human clinical trials are very expensive and difficult to design and implement, in part because they are subject to rigorous regulatory requirements. The clinical trial process itself is also time-consuming. We estimate that clinical trials of our product candidates will take at least several years to complete. Furthermore, failure can occur at any stage of the trials, and we could encounter problems that cause us to abandon or repeat clinical trials. The commencement and completion of clinical trials may be delayed by several factors, including:

- Unforeseen safety issues;
- Determination of dosing issues;
- Lack of effectiveness during clinical trials;
- Slower than expected rates of patient recruitment and enrollment;
- Inability to monitor patients adequately during or after treatment;
- Inability or unwillingness of medical investigators to follow our clinical protocols; and
- Regulatory determinations to temporarily or permanently cease enrollment for other reasons not related to patient safety.

We commenced the PICASSO 3 pivotal trial for IV palifosfamide early in the third quarter of 2010 in a small number of sites in the United States as we pursued site review board clearance for trial conduct in the anticipated 150 or more sites expected worldwide. Site opening is a complex and time-consuming process, often requiring six months to complete outside of the United States. PICASSO 3 has a targeted enrollment of 424 patients. We experienced slower than anticipated enrollment in the trial at start-up due in part to the timing of site openings and regulatory approvals. While enrollment is complicated by a number of factors outside of our control, we completed full enrollment in June 2012. The outcome in progression-free survival, the study's primary endpoint for accelerated approval, is anticipated in the fourth quarter of 2012. As an orphan designated indication, the patient population available for participation in the PICASSO 3 trial is generally limited. If we cannot meet our forecasted enrollment, or the trial is delayed for other reasons, the delay will postpone our receipt of results from the trial and, consequently, our ability to submit a corresponding NDA with FDA for regulatory approval in accordance with our plans. See also "Risk Factors—*Our product candidates are in various stages of clinical trials, which are very expensive and time-consuming. We cannot be certain when we will be able to file an NDA or BLA with the FDA and any failure or delay in completing clinical trials for our product candidates could harm our business*."

We have received "Orphan Drug" status for palifosfamide for treatment of soft tissue sarcomas and darinaparsin for treatment of peripheral T-cell lymphoma in both the United States and Europe, and we may be able to receive additional Orphan Drug status from the FDA, Europe and certain other countries for other product candidates. Orphan Drug status promotes the development of products that demonstrate the promise for the diagnosis and treatment of one disease or condition affecting fewer than 200,000 patients in the United States and affords certain financial and market protection benefits to successful applicants. There is no guarantee that any of our other product candidates will be granted Orphan Drug status by the FDA or that, even if such product candidate is granted such status, the product candidate's clinical development and regulatory approval process will not be delayed or will be successful.

In addition, we or the FDA may suspend our clinical trials at any time if it appears that we are exposing participants to unacceptable health risks or if the FDA finds deficiencies in our IND submission or in the conduct of these trials.

We may not be able to commercialize any products, generate significant revenues, or attain profitability.

To date, none of our product candidates have been approved for commercial sale in any country. The process to develop, obtain regulatory approval for, and commercialize potential drug candidates is long, complex, and costly. Unless and until we receive approval from the FDA and/or other regulatory authorities for our product candidates, we cannot sell our drugs and will not have product revenues. Even if we obtain regulatory approval for one or more of our product candidates, if we are unable to successfully commercialize our products, we may not be able to generate sufficient revenues to achieve or maintain profitability, or to continue our business without raising significant additional capital, which may not be available. Our failure to achieve or maintain profitability could negatively impact the trading price of our common stock.

The technology on which our Channel Agreement with Intrexon Corporation is based in part on early stage technology in the field of human oncologic therapeutics.

Our Channel Agreement with Intrexon contemplates our using Intrexon's advanced transgene engineering platform for the controlled and precise cellular production of anti-cancer effectors. The *in vivo* effector platform in which we have acquired rights represents early-stage technology in the field of human oncologic biotherapeutics, with ZIN-CTI-001 which has completed a Phase 1b study and ZIN-ATI-001 currently in a Phase 1b study, both in melanoma. Although we plan to leverage Intrexon's synthetic biology platform for additional products targeting key pathways used by cancers to grow and metastasize, we may not be successful in developing and commercializing these products for a variety of reasons. The risk factors set forth herein that apply to our small molecule drug candidates, which are in various stages of development, also apply to product candidates that we seek to develop under our Channel Agreement with Intrexon.

We will incur additional expenses in connection with our Channel Agreement with Intrexon Corporation.

The *in vivo* effector platform, in which we have acquired rights for cancer from Intrexon, includes two existing product candidates, with DC-RTS-IL-12 and Ad-RTS-IL-12. Upon entry into the Channel Agreement with Intrexon, we assumed responsibility for the clinical development of these product candidates, which we expect will increase the level of our overall research and development expenses significantly going forward. Although all human clinical trials are expensive and difficult to design and implement, we believe that due to complexity, costs associated with clinical trials for synthetic biology products are greater than the corresponding costs associated with clinical trials for small molecule candidates. In addition to increased research and development costs, we have added, and continue to add, headcount in part to support our Channel Agreement endeavors, which will add to our general and administrative expenses going forward.

Although our forecasts for expenses and the sufficiency of our capital resources takes into account our plans to develop the Intrexon products, we assumed development responsibility for these products on January 6, 2011 and the actual costs associated therewith may be significantly in excess of forecasted amounts. In addition to the amount and timing of expenses related to the clinical trials, our actual cash requirements may vary materially from our current expectations for a number of other factors that may include, but are not limited to, changes in the focus and direction of our development programs, competitive and technical advances, costs associated with the development of our product candidates and costs of filing, prosecuting, defending and enforcing our intellectual property rights. If we exhaust our capital reserves more quickly than anticipated, regardless of the reason, and we are unable to obtain additional financing on terms acceptable to us or at all, we will be unable to proceed with development of some or all of our product candidates on expected timelines and will be forced to prioritize among them.

We have a limited operating history upon which to base an investment decision.

We are a development-stage company that was incorporated in September 2003. To date, we have not demonstrated an ability to perform the functions necessary for the successful commercialization of any product candidates. The successful commercialization of any product candidates will require us to perform a variety of functions, including:

- Continuing to undertake preclinical development and clinical trials;
- Participating in regulatory approval process;
- Formulating and manufacturing products; and
- Conducting sales and marketing activities.

Our operations have been limited to organizing and staffing our company, acquiring, developing and securing our proprietary product candidates, and undertaking preclinical and clinical trials of our product candidates. These operations provide a limited basis for you to assess our ability to commercialize our product candidates and the

advisability of investing in our securities.

Because we currently neither have nor intend to establish internal research capabilities, we are dependent upon pharmaceutical and biotechnology companies and academic and other researchers to sell or license us their product candidates and technology.

Proposing, negotiating, and implementing an economically viable product acquisition or license is a lengthy and complex process. We compete for partnering arrangements and license agreements with pharmaceutical, biopharmaceutical, and biotechnology companies, many of which have significantly more experience than we do, and have significantly more financial resources. Our competitors may have stronger relationships with certain third parties including academic research institutions, with whom we are interested in collaborating and may have, therefore, a competitive advantage in entering into partnering arrangements with those third parties. We may not be able to acquire rights to additional product candidates on terms that we find acceptable, or at all.

We expect that any product candidate to which we acquire rights will require significant additional development and other efforts prior to commercial sale, including extensive clinical testing and approval by the FDA and applicable foreign regulatory authorities. All drug product candidates are subject to the risks of failure inherent in pharmaceutical product development, including the possibility that the product candidate will not be shown to be sufficiently safe or effective for approval by regulatory authorities. Even if our product candidates are approved, they may not be economically manufactured or produced, or be successfully commercialized.

We actively evaluate additional product candidates to acquire for development. Such additional product candidates, if any, could significantly increase our capital requirements and place further strain on the time of our existing personnel, which may delay or otherwise adversely affect the development of our existing product candidates. We must manage our development efforts and clinical trials effectively, and hire, train and integrate additional management, administrative, and sales and marketing personnel. We may not be able to accomplish these tasks, and our failure to accomplish any of them could prevent us from successfully growing.

We may not be able to successfully manage our growth.

In the future, if we are able to advance our product candidates to the point of, and thereafter through, clinical trials, we will need to expand our development, regulatory, manufacturing, marketing and sales capabilities or contract with third parties to provide for these capabilities. Any future growth will place a significant strain on our management and on our administrative, operational, and financial resources. Therefore, our future financial performance and our ability to commercialize our product candidates and to compete effectively will depend, in part, on our ability to manage any future growth effectively. To manage this growth, we must expand our facilities, augment our operational, financial and management systems, and hire and train additional qualified personnel. If we are unable to manage our growth effectively, our business may be harmed.

Our business will subject us to the risk of liability claims associated with the use of hazardous materials and chemicals.

Our contract research and development activities may involve the controlled use of hazardous materials and chemicals. Although we believe that our safety procedures for using, storing, handling and disposing of these materials comply with federal, state and local laws and regulations, we cannot completely eliminate the risk of accidental injury or contamination from these materials. In the event of such an accident, we could be held liable for any resulting damages and any liability could have a materially adverse effect on our business, financial condition, and results of operations. In addition, the federal, state and local laws and regulations governing the use, manufacture, storage, handling and disposal of hazardous or radioactive materials and waste products may require our contractors to incur substantial compliance costs that could materially adversely affect our business, financial condition, and results of operations.

****We rely on key executive officers and scientific and medical advisors, and their knowledge of our business and technical expertise would be difficult to replace.***

We are highly dependent on Dr. Jonathan Lewis, our Chief Executive Officer, Dr. Hagop Youssoufian, our President of Research & Development and Chief Medical Officer, Caesar J. Belbel, our Executive Vice President and Chief

Legal Officer, Jason A. Amello, our Executive Vice President and Chief Financial Officer and our principal scientific, regulatory, and medical advisors. Dr. Lewis', Dr. Youssoufian's, Mr. Belbel's and Mr. Amello's employment are governed by written employment agreements. The employment agreement with Dr. Lewis provides for terms that expire in January 2013. Drs. Lewis and Youssoufian, and Messrs. Belbel and Amello may terminate their employment with us at any time, subject, however, to certain non-compete and non-solicitation covenants. The loss of the technical knowledge and management and industry expertise of Drs. Lewis and Youssoufian and Messrs. Belbel and Amello, or any of our other key personnel, could result in delays in product development, loss of customers and sales, and diversion of management resources, which could adversely affect our operating results. We do not carry "key person" life insurance policies on any of our officers or key employees.

If we are unable to hire additional qualified personnel, our ability to grow our business may be harmed.

We will need to hire additional qualified personnel with expertise in preclinical and clinical research and testing, government regulation, formulation and manufacturing, and eventually, sales and marketing. We compete for qualified individuals with numerous biopharmaceutical companies, universities, and other research institutions. Competition for such individuals is intense and we cannot be certain that our search for such personnel will be successful. Attracting and retaining qualified personnel will be critical to our success. If we are unable to hire additional qualified personnel, our ability to grow our business may be harmed.

We may incur substantial liabilities and may be required to limit commercialization of our products in response to product liability lawsuits.

The testing and marketing of medical products entail an inherent risk of product liability. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit commercialization of our products, if approved. Even a successful defense would require significant financial and management resources. Regardless of the merit or eventual outcome, liability claims may result in:

- Decreased demand for our product candidates;
- Injury to our reputation;
- Withdrawal of clinical trial participants;
- Withdrawal of prior governmental approvals;
- Costs of related litigation;
- Substantial monetary awards to patients;
- Product recalls;
- Loss of revenue; and
- The inability to commercialize our product candidates.

We currently carry clinical trial insurance and product liability insurance. However, an inability to renew our policies or to obtain sufficient insurance at an acceptable cost could prevent or inhibit the commercialization of pharmaceutical products that we develop, alone or with collaborators.

RISKS RELATED TO THE CLINICAL TESTING, REGULATORY APPROVAL AND MANUFACTURING OF OUR PRODUCT CANDIDATES

If we are unable to obtain the necessary U.S. or worldwide regulatory approvals to commercialize any product candidate, our business will suffer.

We may not be able to obtain the approvals necessary to commercialize our product candidates, or any product candidate that we may acquire or develop in the future for commercial sale. We will need FDA approval to commercialize our product candidates in the United States and approvals from regulatory authorities in foreign jurisdictions equivalent to the FDA to commercialize our product candidates in those jurisdictions. In order to obtain FDA approval of any product candidate, we must submit to the FDA an NDA or biologic license application, or BLA, demonstrating that the product candidate is safe for humans and effective for its intended use. This demonstration requires significant research and animal tests, which are referred to as preclinical studies, as well as human tests, which are referred to as clinical trials. Satisfaction of the FDA's regulatory requirements typically takes many years, depending upon the type, complexity, and novelty of the product candidate, and will require substantial resources for research, development, and testing. We cannot predict whether our research, development, and clinical approaches will result in drugs that the FDA will consider safe for humans and effective for their intended uses. The FDA has substantial discretion in the drug approval process and may require us to conduct additional preclinical and clinical testing or to perform post-marketing studies. The approval process may also be delayed by changes in government regulation, future legislation, or administrative action or changes in FDA policy that occur prior to or during our regulatory review. Delays in obtaining regulatory approvals may:

- Delay commercialization of, and our ability to derive product revenues from, our product candidates;
- Impose costly procedures on us; and
- Diminish any competitive advantages that we may otherwise enjoy.

Even if we comply with all FDA requests, the FDA may ultimately reject one or more of our NDAs or BLAs. We cannot be sure that we will ever obtain regulatory clearance for any of our product candidates. Failure to obtain FDA approval for our product candidates will severely undermine our business by leaving us without a saleable product, and therefore without any potential revenue source, until another product candidate can be developed. There is no guarantee that we will ever be able to develop or acquire another product candidate or that we will obtain FDA approval if we are able to do so.

In foreign jurisdictions, we similarly must receive approval from applicable regulatory authorities before we can commercialize any drugs. Foreign regulatory approval processes generally include all of the risks associated with the FDA approval procedures described above.

Our product candidates are in various stages of clinical trials, which are very expensive and time-consuming. We cannot be certain when we will be able to file an NDA or BLA with the FDA and any failure or delay in completing clinical trials for our product candidates could harm our business.

Our product candidates are in various stages of development and require extensive clinical testing. Notwithstanding our current clinical trial plans for each of our existing product candidates, we may not be able to commence additional trials or see results from these trials within our anticipated timelines. As such, we cannot predict with any certainty if or when we might submit an NDA or BLA for regulatory approval of our product candidates or whether such an NDA or BLA will be accepted. Because we do not anticipate generating revenues unless and until we submit one or more NDAs or BLAs and thereafter obtain requisite FDA approvals, the timing of our NDA or BLA submissions and FDA determinations regarding approval thereof, will directly affect if and when we are able to generate revenues.

The results of our clinical trials may not support our product candidate claims.

Even if our clinical trials are completed as planned, we cannot be certain that their results will support approval of our product candidates. The FDA normally expects two randomized, well-controlled Phase 3 pivotal studies in support of approval of an NDA or BLA. Our PICASSO 3 trial, even if successful, may not be sufficient to support approval and we may be required to conduct additional pivotal trials of palifosfamide in metastatic soft tissue sarcoma in order to obtain NDA approval. Success in preclinical testing and early clinical trials does not ensure that later clinical trials will be successful, and we cannot be certain that the results of later clinical trials will replicate the results of prior clinical trials and preclinical testing. The clinical trial process may fail to demonstrate that our product candidates are safe for humans and effective for the indicated uses. This failure would cause us to abandon a product candidate and may delay development of other product candidates. Any delay in, or termination of, our clinical trials will delay the submission of our NDAs or BLAs with the FDA and, ultimately, our ability to commercialize our product candidates and generate product revenues. In addition, our clinical trials involve small patient populations. Because of the small sample size, the results of these clinical trials may not be indicative of future results.

Because we are dependent upon clinical research institutions and other contractors for clinical testing and for research and development activities, the results of our clinical trials and such research activities are, to a certain extent, beyond our control.

We materially rely upon independent investigators and collaborators, such as universities and medical institutions, to conduct our preclinical and clinical trials under agreements with us. These collaborators are not our employees and we cannot control the amount or timing of resources that they devote to our programs. These investigators may not assign as great a priority to our programs or pursue them as diligently as we would if we were undertaking such programs ourselves. If outside collaborators fail to devote sufficient time and resources to our drug development programs, or if their performance is substandard, the approval of our FDA applications, if any, and our introduction of new products, if any, will be delayed. These collaborators may also have relationships with other commercial entities, some of whom may compete with us. If our collaborators assist our competitors to our detriment, our competitive position would be harmed.

Our reliance on third parties to formulate and manufacture our product candidates exposes us to a number of risks that may delay the development, regulatory approval and commercialization of our products or result in higher product costs.

We do not have experience in drug formulation or manufacturing of drugs or biologics and do not intend to establish our own manufacturing facilities. Although we will work closely with and rely upon Intrexon on the manufacturing and scale-up of Intrexon product candidates, we lack the resources and expertise to formulate or manufacture our own product candidates. We currently are contracting for the manufacture of our product candidates. We intend to contract with one or more manufacturers to manufacture, supply, store, and distribute drug supplies for our clinical trials. If a product candidate we develop or acquire in the future receives FDA approval, we will rely on one or more third-party contractors or Intrexon to manufacture our products. Our anticipated future reliance on a limited number of third-party manufacturers exposes us to the following risks:

- We may be unable to identify manufacturers on acceptable terms or at all because the number of potential manufacturers is limited and the FDA must approve any replacement contractor. This approval would require new testing and compliance inspections. In addition, a new manufacturer would have to be educated in, or develop substantially equivalent processes for, production of our products after receipt of FDA approval, if any.

- Our third-party manufacturers might be unable to formulate and manufacture our products in the volume and of the quality required to meet our clinical needs and commercial needs, if any.

- Our future contract manufacturers may not perform as agreed or may not remain in the contract manufacturing business for the time required to supply our clinical trials or to successfully produce, store, and distribute our products.

- Drug manufacturers are subject to ongoing periodic unannounced inspection by the FDA, the Drug Enforcement Administration and corresponding state agencies to ensure strict compliance with good manufacturing practices and other government regulations and corresponding foreign standards. We do not have control over third-party manufacturers' compliance with these regulations and standards.

- If any third-party manufacturer makes improvements in the manufacturing process for our products, we may not own, or may have to share, the intellectual property rights to the innovation.

Each of these risks could delay our clinical trials, the approval, if any, of our product candidates by the FDA or the commercialization of our product candidates or result in higher costs or deprive us of potential product revenues.

RISKS RELATED TO OUR ABILITY TO COMMERCIALIZE OUR PRODUCT CANDIDATES

If we are unable either to create sales, marketing and distribution capabilities or enter into agreements with third parties to perform these functions, we will be unable to commercialize our product candidates successfully.

We currently have no marketing, sales, or distribution capabilities. If and when we become reasonably certain that we will be able to commercialize our current or future products, we anticipate allocating resources to the marketing, sales and distribution of our proposed products in North America and in certain other countries; however, we cannot assure that we will be able to market, sell, and distribute our products successfully. Our future success also may depend, in part, on our ability to enter into and maintain collaborative relationships for such capabilities and to encourage the collaborator's strategic interest in the products under development, and such collaborator's ability to successfully market and sell any such products. Although we intend to pursue certain collaborative arrangements regarding the sale and marketing of certain of our products, there are no assurances that we will be able to establish or maintain collaborative arrangements or, if we are able to do so, whether we would be able to conduct our own sales efforts. There can also be no assurance that we will be able to establish or maintain relationships with third-party collaborators or develop in-house sales and distribution capabilities. To the extent that we depend on third parties for marketing and distribution, any revenues we receive will depend upon the efforts of such third parties, and there can be no assurance that such efforts will be successful. In addition, there can also be no assurance that we will be able to market and sell our products in the United States or overseas.

If we are not able to partner with a third party and are not successful in recruiting sales and marketing personnel or in building a sales and marketing infrastructure, we will have difficulty commercializing our product candidates, which would harm our business. If we rely on pharmaceutical or biotechnology companies with established distribution systems to market our products, we will need to establish and maintain partnership arrangements, and we may not be able to enter into these arrangements on acceptable terms or at all. To the extent that we enter into co-promotion or other arrangements, any revenues we receive will depend upon the efforts of third parties that may not be successful and that will be only partially in our control.

If we cannot compete successfully for market share against other drug companies, we may not achieve sufficient product revenues and our business will suffer.

The market for our product candidates is characterized by intense competition and rapid technological advances. If a product candidate receives FDA approval, it will compete with a number of existing and future drugs and therapies developed, manufactured and marketed by others. Existing or future competing products may provide greater therapeutic convenience or clinical or other benefits for a specific indication than our products, or may offer comparable performance at a lower cost. If our products fail to capture and maintain market share, we may not achieve sufficient product revenues and our business will suffer.

We will compete against fully integrated pharmaceutical companies and smaller companies that are collaborating with larger pharmaceutical companies, academic institutions, government agencies and other public and private research organizations. Many of these competitors have products already approved or in development. In addition, many of these competitors, either alone or together with their collaborative partners, operate larger research and development programs or have substantially greater financial resources than we do, as well as significantly greater experience in:

- Developing drugs and biopharmaceuticals;
- Undertaking preclinical testing and human clinical trials;
- Obtaining FDA and other regulatory approvals of drugs and biopharmaceuticals;
- Formulating and manufacturing drugs and biopharmaceuticals; and
- Launching, marketing, and selling drugs and biopharmaceuticals.

If physicians and patients do not accept and use our product candidates, our ability to generate revenue from sales of our products will be materially impaired.

Even if the FDA approves our product candidates, physicians and patients may not accept and use them. Acceptance and use of our products will depend upon a number of factors including:

- Perceptions by members of the health care community, including physicians, about the safety and effectiveness of our drugs;
- Pharmacological benefit and cost-effectiveness of our products relative to competing products;
- Availability of reimbursement for our products from government or other healthcare payors;
- Effectiveness of marketing and distribution efforts by us and our licensees and distributors, if any; and
- The price at which we sell our products.

Because we expect sales of our current product candidates, if approved, to generate substantially all of our product revenues for the foreseeable future, the failure of a drug to find market acceptance would harm our business and could require us to seek additional financing in order to fund the development of future product candidates.

Our ability to generate product revenues will be diminished if our drugs sell for inadequate prices or patients are unable to obtain adequate levels of reimbursement.

Our ability to commercialize our drugs, alone or with collaborators, will depend in part on the extent to which reimbursement will be available from:

- Government and health administration authorities;
- Private health maintenance organizations and health insurers; and

- Other healthcare payers.

Government and other healthcare payers increasingly attempt to contain healthcare costs by limiting both coverage and the level of reimbursement for drugs. As a result, we cannot provide any assurances that third-party payors will provide adequate coverage of and reimbursement for any of our product candidates. If we are unable to obtain adequate coverage of and payment levels for our product candidates from third-party payors, physicians may limit how much or under what circumstances they will prescribe or administer them and patients may decline to purchase them. This in turn could affect our ability to successfully commercialize our products and impact our profitability and future success.

In both the United States and certain foreign jurisdictions, there have been a number of legislative and regulatory proposals in recent years to change the healthcare system in ways that could impact our ability to sell our products profitably.

We cannot predict the impact on our business of any legislation or regulations that may be adopted in the future. The implementation of cost containment measures or other healthcare reforms may prevent us from being able to generate revenue, attain profitability, or commercialize our products.

In addition, in many foreign countries, particularly the countries of the European Union, the pricing of prescription drugs is subject to government control. We may face competition for our product candidates from lower-priced products in foreign countries that have placed price controls on pharmaceutical products. In addition, there may be importation of foreign products that compete with our own products, which could negatively impact our profitability.

Our ability to use net operating loss carryforwards to reduce future tax payments may be limited or restricted.

We have generated significant net operating loss carryforwards, or NOLs, as a result of our incurrence of losses since inception. We generally are able to carry NOLs forward to reduce taxable income in future years. However, our ability to utilize the NOLs is subject to the rules of Section 382 of the Internal Revenue Code. Section 382 generally restricts the use of NOLs after an "ownership change." An ownership change occurs if, among other things, the stockholders (or specified groups of stockholders) who own or have owned, directly or indirectly, 5% or more of a corporation's common stock or are otherwise treated as 5% stockholders under Section 382 and the U.S. Treasury Department regulations promulgated thereunder increase their aggregate percentage ownership of that corporation's stock by more than 50 percentage points over the lowest percentage of the stock owned by these stockholders over a three-year rolling period. In the event of an ownership change, Section 382 imposes an annual limitation on the amount of taxable income a corporation may offset with NOL carry forwards. This annual limitation is generally equal to the product of the value of the corporation's stock on the date of the ownership change, multiplied by the long-term tax-exempt rate published monthly by the Internal Revenue Service. Any unused annual limitation may be carried over to later years until the applicable expiration date for the respective NOL carry forwards. We may have experienced an "ownership change" within the meaning of Section 382 in the past. As a result, our NOLs may be subject to limitations and we may be required to pay taxes earlier and in larger amounts than would be the case if our NOLs were freely usable.

RISKS RELATED TO OUR INTELLECTUAL PROPERTY

If we fail to adequately protect or enforce our intellectual property rights or secure rights to patents of others, the value of our intellectual property rights would diminish.

Our success, competitive position, and future revenues will depend in part on our ability and the abilities of our licensors to obtain and maintain patent protection for our products, methods, processes and other technologies, to preserve our trade secrets, to prevent third parties from infringing on our proprietary rights, and to operate without infringing the proprietary rights of third parties.

To date, we have exclusive rights to certain U.S. and foreign intellectual property with respect to our small molecule product candidates and with respect to the Intrexon technology, including the existing Intrexon product candidates. Under our Channel Agreement with Intrexon, Intrexon has the sole right to conduct and control the filings, prosecution and maintenance of the patents and patent applications licensed to us. Although under the agreement Intrexon has agreed to consider in good faith and consult with us regarding any comments we may have regarding these patents and patent applications, we cannot guarantee that our comments will be solicited or followed. Without direct control of the channel program patents and patent applications, we are dependent on Intrexon to keep us advised of prosecution, particularly in foreign jurisdictions where prosecution information may not be publicly available. We anticipate that we and Intrexon will file additional patent applications both in the United States and in other countries.

However, we cannot predict or guarantee:

- The degree and range of protection any patents will afford us against competitors, including whether third parties will find ways to invalidate or otherwise circumvent our patents;
- If and when patents will be issued;
- Whether or not others will obtain patents claiming aspects similar to those covered by our patents and patent applications; or
- Whether we will need to initiate litigation or administrative proceedings that may be costly whether we win or lose.

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Changes in patent laws or in interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property or narrow the scope of our patent protection. In September 2011, the Leahy-Smith America Invents Act, or the Leahy-Smith Act, was signed into law, resulting in a number of significant changes to U.S. patent law. These changes include provisions that affect the way patent applications will be prosecuted and may also affect patent litigation. In addition, the U.S. Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations. This combination of events has created uncertainty with respect to the value of patents, once obtained, and with regard to our ability to obtain patents in the future. Depending on decisions by the U.S. Patent and Trademark Office, which is developing regulations and procedures to implement the Leahy-Smith Act, and federal courts, the laws and regulations governing patents could change in unpredictable ways that would weaken our ability to obtain new patents or to enforce our existing patents and patents that we might obtain in the future.

Certain technologies utilized in our research and development programs are already in the public domain. Moreover, a number of our competitors have developed technologies, filed patent applications or obtained patents on technologies, compositions and methods of use that are related to our business and may cover or conflict with our owned or licensed patent applications, technologies or product candidates. Such conflicts could limit the scope of the patents that we may be able to obtain or may result in the rejection of claims in our patent applications. Because patent applications in the United States and many foreign jurisdictions are typically not published until eighteen months after filing, or in some cases not at all, and because publications of discoveries in the scientific literature often lag behind actual discoveries, neither we nor our licensors can be certain that others have not filed or maintained patent applications for technology used by us or covered by our pending patent applications without our being aware of these applications. In addition, our own earlier filed patents and applications or those of Intrexon may limit the scope of later patents we obtain or may result in the rejection of claims in our later filed patent applications. If third parties filed patent applications or obtained patents on technologies, compositions and methods of use that are related to our business and that cover or conflict with our owned or licensed patent applications, technologies or product candidates, we may be required to challenge such protection, terminate or modify our programs impacted by such protection or obtain licenses from such third parties, which might not be available on acceptable terms, or at all.

Our success also depends upon the skills, knowledge, and experience of our scientific and technical personnel, our consultants and advisors, as well as our licensors and contractors. To help protect our proprietary know-how and our inventions for which patents may be unobtainable or difficult to obtain, we rely on trade secret protection and confidentiality agreements. To this end, it is our general policy to require our employees, consultants, advisors, and contractors to enter into agreements that prohibit the disclosure of confidential information and, where applicable, require disclosure and assignment to us of the ideas, developments, discoveries, and inventions important to our business. These agreements may not provide adequate protection for our trade secrets, know-how or other proprietary information in the event of any unauthorized use or disclosure or the lawful development by others of such information. If any of our trade secrets, know-how or other proprietary information is disclosed, the value of our trade secrets, know-how and other proprietary rights would be significantly impaired and our business and competitive position would suffer.

Third-party claims of intellectual property infringement would require us to spend significant time and money and could prevent us from developing or commercializing our products.

In order to protect or enforce patent rights, we, or Intrexon, may initiate patent infringement litigation against third parties. Similarly, we may be sued by others for patent infringement. We also may become subject to proceedings conducted in the U.S. Patent and Trademark Office, including interference proceedings to determine the priority of inventions, or reexamination proceedings. In addition, any foreign patents that are granted may become subject to opposition, nullity, or revocation proceedings in foreign jurisdictions having such proceedings. The defense and prosecution, if necessary, of intellectual property actions are costly and divert technical and management personnel away from their normal responsibilities.

Our research, development and commercialization activities, as well as any product candidates or products resulting from these activities, may infringe or be claimed to infringe patents or patent applications under which we do not hold licenses or other rights. Patents do not protect its owner from a claim of infringement of another owner's patent. Therefore, our patent position cannot and does not provide any assurance that we are not infringing the patent rights of another.

The patent landscape in the field of novel DNA biotherapeutics, which we are pursuing under our exclusive channel partnership with Intrexon, is particularly complex. We are aware of numerous U.S. and foreign patents and pending patent applications of third parties that cover compositions, methods of use and methods of manufacture of novel DNA biotherapeutics, including biotherapeutics involving the *in vivo* expression of human IL-12. In addition, there may be patents and patent applications in the field of which we are not aware. The technology we license from Intrexon is early-stage technology and we are just beginning the process of designing and developing products using this technology. Although we will seek to avoid pursuing the development of products that may infringe any patent claims that we believe to be valid and enforceable, we may fail to do so. Moreover, given the breadth and number of claims in patents and pending patent applications in the field of novel DNA biotherapeutics and the complexities and uncertainties associated with them, third parties may allege that we are infringing upon patent claims even if we do not believe such claims to be valid and enforceable.

If a claim for patent infringement is asserted, there can be no assurance that the resolution of the claim would permit us to continue marketing the relevant product on commercially reasonable terms, if at all. We may not have sufficient resources to bring these actions to a successful conclusion. If we do not successfully defend any infringement actions to which we become a party or are unable to have infringed patents declared invalid or unenforceable, we may have to pay substantial monetary damages, which can be tripled if the infringement is deemed willful, or be required to discontinue or significantly delay commercialization and development of the affected products.

Any legal action against us or our collaborators claiming damages and seeking to enjoin developmental or marketing activities relating to affected products could, in addition to subjecting us to potential liability for damages, require us or our collaborators to obtain licenses to continue to develop, manufacture, or market the affected products. Such a license may not be available to us on commercially reasonable terms, if at all.

An adverse determination in a proceeding involving our owned or licensed intellectual property may allow entry of generic substitutes for our products.

If we breach any of the agreements under which we license rights to products or technology from others, we could lose license rights that are material to our business or be subject to claims by our licensors.

We license rights to products and technology that are important to our business, and we expect to enter into additional licenses in the future. For instance, we have exclusively licensed patents and patent applications under our agreement with Intrexon. Under these agreements, we are subject to a range of commercialization and development, sublicensing, royalty, patent prosecution and maintenance, insurance and other obligations.

Any failure by us to comply with any of these obligations or any other breach by us of our license agreements could give the licensor the right to terminate the license in whole, terminate the exclusive nature of the license or bring a claim against us for damages. Any such termination or claim could have a material adverse effect on our financial condition, results of operations, liquidity or business. Even if we contest any such termination or claim and are ultimately successful, such dispute could lead to delays in the development or commercialization of potential products and result in time-consuming and expensive litigation or arbitration. On termination we may be required to license to the licensor any related intellectual property that we developed.

In addition, in certain cases, the rights licensed to us are rights of a third party licensed to our licensor. In such instances, if our licensors do not comply with their obligations under such licenses, our rights under our license agreements with our licensor may be adversely affected.

OTHER RISKS RELATED TO OUR COMPANY

We are subject to Sarbanes-Oxley and the reporting requirements of federal securities laws, which can be expensive.

As a public reporting company, we are subject to the Sarbanes-Oxley Act of 2002, as well as to the information and reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and other federal securities laws. As a result, we incur significant legal, accounting, and other expenses that we would not incur as a private company, including costs associated with our public company reporting requirements and corporate governance requirements. As an example of public reporting company requirements, we evaluate the effectiveness of disclosure controls and procedures and of our internal control over financing reporting in order to allow management to report on such controls. Sarbanes-Oxley generally requires that a public reporting company's independent registered public accounting firm attest to the effectiveness of the company's internal control over financial reporting as of the end of each fiscal year in the company's annual report on Form 10-K. In addition, any updates to our finance and accounting systems, procedures and controls, which may be required as a result of our ongoing analysis of internal controls, or results of testing by our independent auditor, may require significant time and expense. As a company with limited accounting resources, a significant amount of management's time and attention has been and will continue to be diverted from our business to ensure compliance with these regulatory requirements. This diversion of management's time and attention may have a material adverse effect on our business, financial condition and results of operations.

Management is working to continuously monitor and improve internal controls and has set in place controls to mitigate the potential segregation of duties risk. In the event significant deficiencies or material weaknesses are indentified in our internal control over financial reporting that we cannot remediate in a timely manner, or if we are unable to receive a positive attestation from our independent registered public accounting firm with respect to our internal controls over financial reporting, investors and others may lose confidence in the reliability of our financial statements and the trading price of our common stock and ability to obtain any necessary equity or debt financing could suffer. In addition, in the event that our independent registered public accounting firm is unable to rely on our internal controls over financial reporting in connection with its audit of our financial statements, and in the further event that it is unable to devise alternative procedures in order to satisfy itself as to the material accuracy of our financial statements and related disclosures, we may be unable to file our periodic reports with the SEC. This would likely have an adverse affect on the trading price of our common stock and our ability to secure any necessary additional equity or debt financing, and could result in the delisting of our common stock from the NASDAQ Capital Market, which would severely limit the liquidity of our common stock.

Anti-takeover provisions in our charter documents and under Delaware law may make an acquisition of us, which may be beneficial to our stockholders, more difficult.

Provisions of our amended and restated certificate of incorporation and bylaws, as well as provisions of Delaware law, could make it more difficult for a third party to acquire us, even if doing so would benefit our stockholders. These provisions authorize the issuance of "blank check" preferred stock that could be issued by our board of directors to increase the number of outstanding shares and hinder a takeover attempt, and limit who may call a special meeting of stockholders. In addition, Section 203 of the Delaware General Corporation Law generally prohibits a publicly-held Delaware corporation from engaging in a business combination with a party that owns at least 15% of its common stock unless the business combination is approved by the company's board of directors before the person acquires the 15% ownership stake or later by its board of directors and two-thirds of its stockholders. In connection with our January 2011 issuance of shares of common stock to Intrexon in a private placement transaction, our board of directors waived the Section 203 prohibition with respect to a future business combination with Intrexon. However, the Stock Purchase Agreement governing such issuance contains a standstill provision that generally prohibits Intrexon from seeking, initiating, offering or proposing to effect such a transaction with our inviting them to do so. Section 203 and this standstill provision could have the effect of delaying, deferring or preventing a change in control that our stockholders might consider to be in their best interests.

Because we do not expect to pay dividends, you will not realize any income from an investment in our common stock unless and until you sell your shares at profit.

We have never paid dividends on our capital stock and we do not anticipate that we will pay any dividends for the foreseeable future. Accordingly, any return on an investment in us will be realized, if at all, only when you sell shares of our common stock.

Item 2. Unregistered Sale of Equity Securities and Use of Proceeds

None.

Item 3. Defaults upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

Not applicable.

Item 6. Exhibits

The exhibits listed in the Exhibit Index immediately preceding such exhibits are filed as part of this report and such Exhibit Index is incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

/s/ Jonathan Lewis
Jonathan Lewis, M.D., Ph.D.

Chief Executive Officer
(Principal Executive Officer)
Dated: August 2, 2012

/s/ Jason A. Amello
Jason A. Amello

Executive Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)
Dated: August 2, 2012

EXHIBIT INDEX

10.1	Employment Agreement, dated May 8, 2012 by and between the Company and Jason Amello (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed May 10, 2012)
10.2	ZIOPHARM Oncology, Inc. 2012 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed June 26, 2012)
10.3	Form of Restricted Stock Agreement granted under the ZIOPHARM Oncology, Inc. 2012 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed June 26, 2012)
10.4	Form of Option Agreement Granted under the ZIOPHARM Oncology, Inc. 2012 Equity Incentive Plan (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed June 26, 2012)
31.1*	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certifications pursuant to 18 U.S.C. Section 1350
101.INS**	XBRL Instance Document
101.SCH**	XBRL Taxonomy Extension Schema Document
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF**	XBRL Taxonomy Definition Linkbase Document
101.LAB**	XBRL Taxonomy Extension Label Linkbase Document
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document

* Filed herewith.

** To be furnished in an amendment to this Form 10-Q to be filed no later than 30 days after the filing date of this Form 10-Q, as permitted by Rule 405 of Regulation S-T.