

**SECURITIES AND EXCHANGE COMMISSION****17 CFR Parts 275 and 279**

[Release No. IA-1602]

RIN 3235-AH08

**Suspension of Form ADV-S****AGENCY:** Securities and Exchange Commission.**ACTION:** Stay of rules and suspension of form.

**SUMMARY:** The Commission is staying a rule and a provision in a rule under the Investment Advisers Act of 1940 that require the filing of Form ADV-S, the annual report filed by all investment advisers registered with the Commission. The Commission is also suspending the use of Form ADV-S indefinitely, pending the outcome of a related rulemaking.

**EFFECTIVE DATE:** Effective December 27, 1996 paragraph (c) of § 275.204-1 and § 279.3 are stayed, and the use of Form ADV-S is suspended.

**FOR FURTHER INFORMATION CONTACT:** Catherine M. Saadeh, Staff Attorney, or Cynthia G. Pugh, Staff Attorney, at (202) 942-0690, Office of Regulatory Policy, Division of Investment Management, Mail Stop 10-2, 450 Fifth Street, N.W., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Commission is staying paragraph (c) of rule 204-1 [17 CFR 275.204-1(c)] and section 279.3 of Part 279 [17 CFR 279.3] under the Investment Advisers Act of 1940 [15 USC 80b-1 *et seq.*] (the "Advisers Act"), which require investment advisers registered with the Commission to annually file Form ADV-S. The Commission is also suspending the use of Form ADV-S.

In a separate release, the Commission today is proposing new Form ADV-T, amendments to Form ADV, and related rules and rule amendments.<sup>1</sup> The proposed rules and form would, among other things, require each investment adviser registered with the Commission to: (i) File a report with the Commission by April 9, 1997 indicating the adviser's continued status under the Advisers Act;<sup>2</sup> and (ii) provide similar information in a new schedule to Form ADV annually thereafter. These proposed new requirements would make unnecessary the reporting requirements of Form ADV-S. Because the new requirements would either duplicate or replace the ADV-S reporting requirements, the Commission believes requiring advisers to file Form ADV-S prior to a final decision whether to adopt the proposed rules would be unduly burdensome. The Commission is therefore staying paragraph (c) of rule 204-1 and rule 279.3, and is suspending the use of Form ADV-S. If proposed new Form ADV-T and the related proposed rules and amendments are adopted, the Commission plans to eliminate the reporting requirements of Form ADV-S. Persons interested in commenting on the proposed elimination of Form ADV-S are encouraged to respond to the request for comments in Investment Advisers Act Rel. No. 1601, File No. S7-31-96.

**Statutory Authority**

The Commission is staying rule 204-1(c) and rule 279.3, and is suspending

<sup>1</sup> See Investment Advisers Act Rel. No. 1601 (Dec. 20, 1996). Form ADV [17 CFR 279.1] is the form used by investment advisers to apply for registration as an investment adviser with the Commission, or amend an existing registration. See Investment Advisers Act Rel. No. 1601 at Section II.H.

<sup>2</sup> See Investment Advisers Act Rel. No. 1601 at Section II.B.

the use of Form ADV-S pursuant to the authority set forth in sections 204 and 211(a) of the Investment Advisers Act of 1940 [15 USC 80b-4 and 80b-11(a)].

**Text of Stayed Rules**

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements, securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

**PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940**

1. The authority citation for Part 275 continues to read, in part, as follows:

Authority: 15 U.S.C. 80b-3, 80b-4, 80b-6A, 80b-11, unless otherwise noted.

**PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940**

2. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b-1, *et seq.*

3. Effective December 27, 1996 § 275.204-1(c) and § 279.3 are stayed, and the use of Form ADV-S is suspended.

Note: Form ADV-S does not appear in the Code of Federal Regulations.

Dated: December 20, 1996.

By the Commission.

Margaret H. McFarland,  
Deputy Secretary.

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