

Exchange Commission, Mail Stop 0-4, 450 5th Street, NW Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 1999.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-10194 Filed 4-22-99; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, NW, Washington, DC 20549

Extension:

Rule 10f-3 [17 CFR 270.10f-3], SEC File No. 270-237, OMB Control No. 3235-0226

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension and approval of the collections of information discussed below.

Section 10(f) of the Investment Company Act of 1940 [15 U.S.C. 80a-10(f)] (the "Act" or "Investment Company Act") prohibits a registered investment company ("fund") from purchasing any security during an underwriting or selling syndicate if the fund has certain relationships with a principal underwriter<sup>1</sup> for the security ("affiliated underwriter").<sup>2</sup> Congress enacted this provision in 1940 to protect funds and their investors by preventing underwriters from "dumping" unmarketable securities on affiliated funds.<sup>3</sup>

<sup>1</sup> Principal underwriter is defined to mean (in relevant part) an underwriter that, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer, (B) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate, or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution. 15 U.S.C. 80a-2(a)(29).

<sup>2</sup> Section 10(f) prohibits the purchase if a principal underwriter of the security is an officer, director, member of an advisory board, investment adviser, or employee of the fund, or if any officer, director, member of an advisory board, investment adviser, or employee of the fund is affiliated with the principal underwriter. 15 U.S.C. 80a-10(f).

<sup>3</sup> See Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Senate Comm. on Banking and Currency,

Under rulemaking authority under section 10(f), the Commission adopted rule 10f-3 in 1958 and last amended the rule in 1997. Rule 10f-3 currently permits a fund to purchase securities in a transaction that otherwise would violate section 10(f) if, among other things:

(1) The securities either are registered under the Securities Act of 1933, are municipal securities with certain credit ratings, or are offered in certain private or foreign offerings;

(2) The offering involves a "firm commitment" underwriting;

(3) The fund (together with other funds advised by the same investment adviser) purchases no more than 25 percent of the offering;

(4) The fund purchases the securities from a member of the syndicate other than the affiliated underwriter;

(5) If the securities are municipal securities, the purchase is not a group sale; and

(6) The fund's directors have approved procedures for purchases made in reliance on the rule and regularly review fund purchases to determine whether they comply with these procedures.

These limitations are designed to ensure that the purchases are not likely to raise the concerns that section 10(f) was enacted to address and are consistent with the protection of investors.<sup>4</sup>

Among other conditions to the exemption, rule 10f-3 requires a fund's board of directors to approve procedures that would ensure compliance with the conditions of the rule and to approve changes to these procedures as necessary. The board also must review rule 10f-3 transactions on a quarterly basis. The rule requires funds to report, on Form N-SAR, any transactions effected under the rule and to attach to the report a written record of each transaction. The written record must state (i) from whom the securities were acquired, (ii) the identity of the underwriting syndicate's members, (iii) the terms of the transactions, and (iv) the information or materials on which the fund's board of directors has determined that the purchases were made in compliance with procedures established by the board. In addition, a fund must retain written records of the rule 10f-3 transactions and of the quarterly transactional information reviewed by the board for six years. These requirements are important not only because they provide a built-in

76th Cong., 3d Sess. 35 (1940) (statement of Commissioner Healy).

<sup>4</sup> See Exemption for the Acquisition of Securities During the Existence of An Underwriting or Selling Syndicate, Investment Company Act Release No. 22775 (July 31, 1997) [62 FR 42401 (Aug. 7, 1997)] ("1997 Adopting Release").

mechanism for fund boards to monitor compliance with the rule, but also because they permit the Commission to review these materials during fund inspections, monitor developments under the rule, and consider whether to take enforcement action in appropriate cases.

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

The collection of information requirements (as well as other requirements) of rule 10f-3 are designed to assure that appropriate arrangements are in place to confirm the enforceability of the Act against the fund. The records required to be maintained are reviewed by the Commission in the course of its compliance and examination program, and are used by fund directors to evaluate procedures and transactions executed pursuant to the rule. The rule does not impose any separate recordkeeping costs on funds because the records required to be maintained already are required by section 31(a) of the Act and rules 31a-1 and 31a-2.

From our review of Form N-SAR filings, we estimate that 300 funds rely on rule 10f-3 annually. We estimate that the board of directors of each of those funds makes, on average, 1 response each year when it approves procedures required by the rule. We estimate further that the approval of such procedures would take on average, 1 hour of director time (at \$500 per hour) and 0.5 hours of professional time (at \$150 per hour) for 70 funds that do not purchase foreign or municipal securities, and 1.5 hours of director time and 0.5 hours of professional time for 230 funds that invest in these securities. Thus, Commission staff estimates that the total annual reporting burden of the rule's paperwork requirement is 565 hours, at a total annual cost of \$230,000.<sup>5</sup>

The estimated burden hours are a decrease from the current allocation of 670 hours. The decrease of 105 hours reflects a decrease in the number of funds that have reported the purchase of securities in reliance on rule 10f-3. The 1996 proposal to eliminate the

<sup>5</sup> This estimate is equal to the number of funds that do not purchase foreign or municipal securities (70) multiplied by the estimated annual cost of adopting or reviewing procedures for each fund ((1×\$500 + (0.5×\$150) = \$575) plus the number of funds that invest in foreign or municipal securities (230) multiplied by the estimated annual cost of adopting or reviewing procedures for each fund ((1.5×\$500 + (0.5×\$150) = \$825), for a total of \$230,000 ((70×\$575) + (230×\$825) = \$230,000).

requirements that funds report information about rule 10f-3 transactions on Form N-SAR would not have led to a decrease in the burden hours reportable for rule 10f-3 because the hours associated with the reporting requirement are included in the burden hours reported for Form N-SAR.

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

Commission staff estimates that there is no cost burden for rule 10f-3 other than the \$230,000 in annual costs associated with the respondent reporting burden. The procedures to be developed and revised as necessary require no start-up or capital costs. Additionally, the development of and occasional review of procedures would be part of customary and usual business practice to ensure compliance with applicable laws and regulations.

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

It is mandatory that funds provide the information required by rule 10f-3 to obtain the benefit of the exemption provided by the rule.

The information required by rule 10f-3 that is reported on Form N-SAR is public and therefore not confidential. The written record of the rule 10f-3 transactions, the quarterly transactional information reviewed by the board, and the written procedures that ensure compliance with the rule, and any modifications, are non-public and therefore confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0-4, 450 5th Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 19, 1999.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17a-3 [17 CFR 240.17a-3], SEC File No. 270-026, OMB Control No. 3235-0033

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 17a-3 [17 CFR 240.17a-3] under the Securities Exchange Act of 1934 requires records to be made by certain exchange members, brokers, and dealers, to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulation rules as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 7,900 active broker-dealer respondents registered with the Commission incur an aggregate burden of 1,967,412 hours per year to comply with this rule.<sup>1</sup>

Rule 17a-3 does not contain record retention requirements. Compliance with the rule is mandatory. The required records are available only to the examination staff of the Commission and the self-regulatory organization of which the broker-dealer is a member. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

<sup>1</sup> The Commission has increased its estimated number of active broker-dealers to 7,900 from the 7,769 that was included in the 60-day notice for the extension request. 64 FR 7915 (Feb. 17, 1999). In addition, the number of burden hours listed above reflects an adjustment for the increase in broker-dealers and an additional 312 hours required for OTC derivative dealers as discussed in Exchange Act Rel. No. 39455 (Dec. 17, 1997), which was inadvertently omitted from the 1,934,481 hours included in the 60-day notice for the extension request.

displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: April 19, 1999.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW, Washington, DC 20549

Extension:

[Rule 24 [17 CFR 250.24]; SEC File No. 270-129; OMB Control No. 3235-0126]

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for an extension of the previously approved collection of information discussed below.

Rule 24 under the Public Utility Holding Company Act of 1935 (15 U.S.C. Section 79a *et seq.*) ("Act") requires the filing with the Commission of certain information indicating that an authorized transaction has been carried out in accordance with the terms and conditions of the Commission order authorizing the transaction. The Commission needs the information under rule 24 to ensure that the terms and conditions of its orders are being complied with, and the Commission uses the information to ensure appropriate compliance with the Act. The respondents are comprised of two groups of entities: (a) Registered holding companies under the Act and their direct and indirect subsidiaries and affiliates; and (b) holding companies