

These 2002 locality pay percentages, which replaced the locality pay percentages that were applicable in 2001, became effective on the first day of the first applicable pay period beginning on or after January 1, 2002. An employee's locality-adjusted annual rate of pay is computed by increasing his or her scheduled annual rate of basic pay (as defined in 5 U.S.C. 5302(8) and 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.605.)

Executive Order 13249 establishes the new Executive Schedule, which incorporates the 3.4 percent increase (rounded to the nearest \$100) required under 5 U.S.C. 5318. The Executive order also reflects a decision by the President to increase the rates of basic pay for members of the Senior Executive Service (SES) by 3.6 percent (rounded to the nearest \$100) at levels ES-1 through ES-3 and by 3.4 percent (rounded to the nearest \$100) at levels ES-4 through ES-6. The maximum rate of basic pay for SES members is limited by law to the rate for level IV of the Executive Schedule, which is now \$130,000.

The Executive order adjusted the rates of basic pay for administrative law judges (ALJs) at levels AL-2 and AL-3 by approximately 5.4 percent (rounded to the nearest \$100). The rate of basic pay for AL-1 was increased by approximately 3.4 percent, since that rate is capped at the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372.)

The rates of basic pay for Board of Contract Appeals (BCA) members are calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372a.) Therefore, BCA rates of basic pay were increased by approximately 3.4 percent. Also, the maximum rate of basic pay for senior-level (SL) and scientific or professional (ST) positions was increased by approximately 3.4 percent (to \$130,000) because it is tied to the rate for level IV of the Executive Schedule. The minimum rate of basic pay for SL/ST positions is equal to 120 percent of the minimum rate of basic pay for GS-15 and thus was increased by 3.6 percent (to \$99,096). (See 5 U.S.C. 5376.)

On December 6, 2001, the President's Pay Agent extended the 2002 locality-based comparability payments to the same Governmentwide and single-agency categories of non-GS employees that received the 2001 locality payments. The Governmentwide categories include members of the SES, the Foreign Service, the Senior Foreign Service, employees in SL/ST positions, ALJs, administrative appeals judges, and BCA members.

OPM published "Salary Tables for 2002," (OPM Doc. 124-48-6) in April 2002. This publication provides complete salary tables incorporating the 2002 pay adjustments, information on general pay administration matters, locality pay area definitions, Internal Revenue Service withholding tables, and other related information. The rates of pay shown in this publication are the official rates of pay for affected employees and are hereby incorporated as part of this notice. You may purchase copies of "Salary Tables for 2002" from the Government Printing Office (GPO) by calling (202) 512-1800 (outside the DC area: 1-866-512-1800) or FAX (202) 512-2250. You may order copies directly from GPO on the Internet at <http://bookstore.gpo.gov>. In addition, you can find pay tables on OPM's Internet Web site at <http://www.opm.gov/oca/payrates/index.htm>.

Office of Personnel Management.

**Kay Coles James,**

*Director.*

[FR Doc. 02-10136 Filed 4-24-02; 8:45 am]

BILLING CODE 6325-39-P

## SECURITIES AND EXCHANGE COMMISSION

[Rule 236, SEC File No. 270-118 and OMB Control No. 3235-0095]

**Proposed Collection; Comment Request; Requests Under Review by Office of Management and Budget Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549**

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 236 under the Securities Act of 1933 ("Securities Act") requires issuers choosing to rely on an exemption from Securities Act registration for the issuance of fractional shares, scrip certificates or order forms, in connection with a stock dividend, stock split, reverse stock split, conversion, merger or similar transaction to furnish specified information to the Commission in writing at least ten days prior to the offering. The information is needed to provide public notice that an

issuer is relying on the exemption. Public companies are the likely respondents. An estimated ten submissions are made pursuant to Rule 236 annually, resulting in an estimated annual total burden of 15 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: April 17, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-10149 Filed 4-24-02; 8:45 am]

BILLING CODE 8010-01-U

## SECURITIES AND EXCHANGE COMMISSION

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

**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**

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 collection 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>

In 1958, under rulemaking authority in section 10(f), the Commission adopted rule 10f-3, which is entitled "Exemption for the Acquisition of Securities During the Existence of an Underwriting or Selling Syndicate." The Commission last amended the rule in January 2001.<sup>4</sup> Rule 10f-3 currently permits a fund to purchase securities in a transaction that otherwise would violate section 10(f) if, among other things:<sup>5</sup>

(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 securities purchases meet certain conditions with respect to timing and price;

(3) the issuer of the securities has been in continuous operation for at least three years prior to the issuance of the securities;

(4) the offering involves a "firm commitment" underwriting;

(5) the underwriters' commission is reasonable;

(6) the fund (together with other funds advised by the same investment adviser) purchases no more than twenty-five percent of the offering;

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

(8) each transaction effected under the rule is reported on Form N-SAR;

(9) the fund's directors have approved procedures for purchases made in reliance on the rule, regularly review fund purchases to determine whether they comply with these procedures, and approve necessary changes to the procedures; and

(10) a written record of each transaction effected under the rule is maintained for six years, the first two of which in an easily accessible place.<sup>6</sup>

These limitations are designed to prevent purchases under the rule from raising the concerns that section 10(f) was enacted to address and to protect the interests of investors. These requirements provide a mechanism for fund boards to oversee compliance with the rule. The required recordkeeping facilitates the Commission staff's review of rule 10f-3 transactions during routine fund inspections and, when necessary, in connection with enforcement actions.

The staff estimates that approximately 410 funds engage in a total of approximately 2050 rule 10f-3 transactions each year. We estimate that each fund makes an average of fifteen responses per year and that the 410 funds that rely on rule 10f-3 make a total of 6150 total annual responses.<sup>7</sup> Before making a purchase under rule 10f-3, the purchasing fund must document that the transaction complies with the conditions in the rule, a process which the staff estimates takes an average of approximately thirty minutes per transaction at a cost of \$22.44 per transaction.<sup>8</sup> Thus, annually, in the aggregate, funds spend approximately 1025 hours<sup>9</sup> at a cost of \$46,002<sup>10</sup> on pre-transaction reporting. The staff estimates that, after the transaction is complete, an additional thirty minutes is spent completing the record of the transaction at a cost of \$22.44 per transaction.<sup>11</sup> Thus, annually, in the aggregate, funds spend

approximately 1025 hours<sup>12</sup> at a cost of \$46,002<sup>13</sup> on post-transaction reporting. The staff estimates further that preparation of a quarterly report of all rule 10f-3 transactions for the board of directors takes approximately 1.5 hours per quarter (in which there are 10f-3 transactions) at a cost of \$43.78.<sup>14</sup> The staff estimates that, on average, each of the 410 funds engages in rule 10f-3 transactions during two quarters each year. Thus, annually in the aggregate, funds spend approximately 1230 hours<sup>15</sup> at a cost of \$35,900<sup>16</sup> on the preparation of quarterly transaction reports. The staff estimates that the board of directors spends fifteen minutes reviewing these reports each quarter (in which there are 10f-3 transactions) at a cost of \$500.<sup>17</sup> Thus, annually, in the aggregate, funds spend approximately 205 hours<sup>18</sup> at a cost of \$410,000<sup>19</sup> for the quarterly review of rule 10f-3 transactions by boards. The staff further estimates that reviewing and revising as needed written procedures for rule 10f-3 transactions takes, on average, two hours of a compliance attorney's time at a cost of approximately \$124.02<sup>20</sup> per year and fifteen minutes of board time at a cost of \$500 per year.<sup>21</sup> Thus, annually, in the aggregate, the staff estimates that funds spend a total of approximately 922.5 hours<sup>22</sup> at a cost of approximately \$255,848<sup>23</sup> on monitoring and revising rule 10f-3 procedures. The staff estimates, therefore, that rule 10f-3 imposes an information collection burden of 4407.5 hours<sup>24</sup> at a cost of

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

<sup>4</sup> Additional amendments to rule 10f-3 were proposed on November 29, 2000. Exemption for the Acquisition of Securities During the Existence of an Underwriting or Selling Syndicate, Investment Company Act Release No. 24775 (Nov. 29, 2000). These proposals, if adopted, would expand the exemption provided by the rule to permit a fund to purchase government securities in a syndicated offering and modify the rule's percentage limit on purchases.

<sup>5</sup> See Rule 10f-3(b).

<sup>6</sup> 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. See Rule 10f-3(b)(12).

<sup>7</sup> 2050 instances of pre-transaction reporting + 2050 instances of post-transaction reporting + 820 quarterly reports + 820 quarterly reviews by fund boards + 410 instances of monitoring and revision of rule 10f-3 procedures = 6150 responses

<sup>8</sup> Typically, personnel from several departments, including portfolio management and compliance, share this task. The staff estimates that the average hourly rate for these personnel is \$44.87.

<sup>9</sup> 2050 transactions per year × 30 minutes per transaction = 1025 hours

<sup>10</sup> 2050 transactions × \$22.44/transaction = \$46,002

<sup>11</sup> As with the reporting at the time of the transaction, the task of completing the record of the transaction is shared among personnel for whom the staff estimates the average hourly rate to be \$44.87.

<sup>12</sup> 2050 transactions per year × 30 minutes per transaction = 1025 hours

<sup>13</sup> 2050 transactions per year × \$22.44/transaction = \$46,002

<sup>14</sup> The staff estimates that a compliance clerk spends one hour of time, at \$12.77/hour, preparing the report and a compliance attorney spends half an hour of time, at \$62.01/hour, reviewing the report.

<sup>15</sup> 410 funds × 2 quarters/year × 1.5 hours/quarter = 1230 hours

<sup>16</sup> 410 funds × 2 quarters/year × \$43.78/quarter = \$35,900

<sup>17</sup> The staff estimates that each hour of a fund board's meeting costs \$2000.

<sup>18</sup> 410 funds × 2 quarters/year × 15 minutes/quarter = 205 hours

<sup>19</sup> 410 funds × 2 quarters/year × \$500/quarter = \$410,000

<sup>20</sup> 2 hours × \$62.01/hour = \$124.02

<sup>21</sup> These averages take into account the fact that in most years, fund attorneys and boards spend little or no time modifying procedures and in other years, they spend a significant amount of time doing so.

<sup>22</sup> 410 funds × (2 hours by compliance attorney + 15 minutes by board/year) = 922.5 hours

<sup>23</sup> 410 funds × (\$124.02 for compliance attorney time + \$500 for board time) = \$255,848

<sup>24</sup> 1025 for pre-transaction reporting + 1025 for post-transaction reporting + 1230 hours for preparing the board report + 205 hours for board

\$793,752.<sup>25</sup> This estimate does not include the time spent filing transaction reports on Form N-SAR, which is encompassed in the information collection burden estimate for that form. Commission staff estimates that there is no cost burden for rule 10f-3 other than the costs associated with the hour burden. These estimates are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study 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. Written records of rule 10f-3 transactions maintained by funds, the written procedures that ensure compliance with the rule, and any modifications to these procedures 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, 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 17, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-10148 Filed 4-24-02; 8:45 am]

**BILLING CODE 8010-01-U**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act; meetings

**STATUS:** Closed meetings

**PLACE:** 450 Fifth Street, NW., Washington, DC.

<sup>25</sup> \$46,002 for pre-transaction reporting + \$46,002 for post-transaction reporting + \$35,900 for preparing the board report + \$410,000 for board review of rule 10f-3 transactions + \$255,848 for monitoring and revising rule 10f-3 procedures = \$793,752

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Tuesday, April 23, 2002 at 10 a.m. and Wednesday, April 24, 2002 at 10 a.m.

**CHANGE IN THE MEETING:** Cancellation of Meeting/Time Change.

The closed meeting scheduled for Tuesday, April 23, 2002, has been cancelled. The closed meeting scheduled for Wednesday, April 24, 2002 at 10 a.m. has changed to Wednesday, April 24, 2002 at 9:30 a.m.

For further information, please contact the Office of the Secretary at (202) 942-7070.

Dated: April 23, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-10287 Filed 4-23-02; 11:53 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act; Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission held the following additional meeting during the week of April 15, 2002:

An additional closed meeting was held on Wednesday, April 17, 2002 at 4 p.m.

Commissioner Glassman, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries attended the closed meeting. Certain staff members who had an interest in the matters were also present.

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

The subject matter of the closed meeting held on Wednesday, April 17, 2001, was:

Adjudicatory matters; and formal order of investigation.

For further information, please contact: The Office of the Secretary at (202) 942-7070.

Dated: April 23, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-10288 Filed 4-23-02; 11:53 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45773; File No. SR-Amex-2002-32]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Suspension of Transaction Charges for Certain Exchange-Traded Funds and Trust Issued Receipts

April 17, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 15, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to suspend Exchange transaction charges for customer orders in the following Amex-listed Exchange-Traded Funds and Trust Issued Receipts: MidCap SPDRs™, Select Sector SPDRs® (9 series), and HOLDRs™ (17 series).

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.