

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0003. The OMB is particularly interested in comments that:

- Evaluate 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* DOL–OSHA.

*Title of Collection:* Gear Certification Standard.

*OMB Control Number:* 1218–0003.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 1,111.

*Total Estimated Number of Responses:* 6,357.

*Total Estimated Annual Time Burden:* 184 hours.

*Total Estimated Annual Other Costs Burden:* \$2,878,090.

Dated: May 20, 2014.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2014–12192 Filed 5–27–14; 8:45 am]

**BILLING CODE 4510–26–P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0256]

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 5, 2013.

1. *Type of submission, new, revision, or extension:* New.

2. *The title of the information collection:* NRC Nuclear Education Grantee Survey.

3. *Current OMB approval number:* 3150–XXXX.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* Once every 5 years.

6. *Who will be required or asked to report:* NRC Grantees.

7. *An estimate of the number of annual responses:* 60.

8. *The estimated number of annual respondents:* 60.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 45 hours.

10. *Abstract:* The NRC seeks to conduct a survey of grantees funded between 2007 and 2011, under NRC's Nuclear Education Grants. The survey will allow the NRC to collect information that is not otherwise available from all grantees to assess the impact of these funds on grantee programs, their faculty, and their students.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/>. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by June 27, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be

given to comments received after this date.

Danielle Y. Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–XXXX), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to [Danielle\\_Y\\_Jones@omb.eop.gov](mailto:Danielle_Y_Jones@omb.eop.gov) or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Kristen Benney, telephone: 301–415–6355.

Dated at Rockville, Maryland, this 20th day of May, 2014.

For the Nuclear Regulatory Commission.

**Kristen Benney,**

*Acting NRC Clearance Officer, Office of Information Services.*

[FR Doc. 2014–12344 Filed 5–27–14; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31054; 812–14280]

### Beverly Hills Bancorp Inc.; Notice of Application

May 21, 2014.

**AGENCY:** Securities and Exchange Commission (the “Commission”).

**ACTION:** Notice of application for an order under sections 6(c) and 6(e) of the Investment Company Act of 1940 (“Act”) for an exemption from all provisions of the Act, except sections 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder, modified as discussed in the application.

*Summary of Application:* The requested order would exempt the applicant, Beverly Hills Bancorp Inc. (“BHBC”), from certain provisions of the Act until the earlier of one year from the date of the requested order or such time as BHBC would no longer be required to register as an investment company under the Act. The requested exemption would extend an exemption granted until May 24, 2014.<sup>1</sup>

*Filing Dates:* The application was filed on February 18, 2014 and amended on April 29, 2014.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request

<sup>1</sup> Beverly Hills Bancorp Inc., Investment Company Act Release Nos. 30497 (April 30, 2013) (notice) and 30541 (May 24, 2013) (order) (“Prior Order”).

a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 13, 2014 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicant, Post Office Box 8280, Calabasas, CA 91372.

**FOR FURTHER INFORMATION CONTACT:** Emerson S. Davis, Senior Counsel, at (202) 551-6876, or Mary Kay Frech, Branch Chief, at (202) 551-6821 (Division of Investment Management, Exemptive Applications Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

#### **Applicant's Representations**

1. BHBC is a bank holding company that conducted its banking and lending operations through its wholly-owned subsidiary First Bank of Beverly Hills, a California banking corporation (the "Bank"). From its incorporation in 1996 until April 24, 2009, the Bank was the source of substantially all of BHBC's revenues and income. The Bank sustained substantial losses in its real estate loan and mortgage-backed securities portfolios, and as of December 31, 2008, it no longer met applicable regulatory capital requirements. As a result, on February 13, 2009, the Federal Deposit Insurance Corporation ("FDIC") and the California Department of Financial Institutions (the "CDFI") issued an order requiring the Bank to increase its regulatory capital within 60 days. Because the Bank was unable to increase its regulatory capital within the specified time period, on April 24, 2009, the CDFI closed the Bank and the FDIC was appointed as the Bank's receiver.

2. BHBC has one class of common stock outstanding, which it voluntarily delisted from the NASDAQ Global Select Market on February 12, 2009. On February 19, 2009, BHBC deregistered

its common stock under Section 12(g) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and on March 13, 2009, its reporting obligations under Section 15(d) of the Exchange Act were suspended. As such, BHBC is no longer subject to the reporting requirements of the Exchange Act and its common stock is solely traded on the over the counter markets under the "Other OTC" category. As of January 27, 2014, BHBC had 78 holders of record.

3. As of December 31, 2013, on a consolidated basis, for financial reporting purposes BHBC has assets of \$8.5 million, liabilities of \$40.9 million, and a stockholders' equity of negative \$32.4 million. On a non-consolidated basis, BHBC's assets total approximately \$7.1 million. BHBC currently has invested the assets in Permitted Securities (as defined below) since the Prior Order.

4. BHBC has several direct or indirect wholly owned subsidiaries, none of which has any ongoing business or operations. As of January 27, 2014, the following assets were held by BHBC subsidiaries: (i) Wilshire Acquisitions Corporation ("Wilshire Acquisitions") has assets with a book value of \$174,052 consisting of accrued interest and prepaid expenses related to a subsidiary trust; (ii) WFC Inc. has assets with a book value of \$220,487 consisting of approximately 13 small consumer and residential mortgage loans, cash, and prepaid expenses; and (iii) BH Commercial Capital I, Inc. has assets with a book value of \$1,084,799 consisting of two secured commercial real estate loans (collectively, the "Subsidiary Assets"). In addition, BHBC also either directly or indirectly owns the common securities of three subsidiary trusts that were formed in connection with offerings of trust preferred securities in which the trust subsidiaries issued their common securities to BHBC or Wilshire Acquisitions and their preferred securities to third party investors. The subsidiary trusts then loaned all the proceeds of the sale of trust preferred securities to BHBC or Wilshire Acquisitions in exchange for junior subordinated debentures (the "Subordinated Debentures"). The subsidiary trusts have no assets other than the Subordinated Debentures.

5. BHBC's liabilities consist principally of \$25.8 million of the Subordinated Debentures issued to its two direct trust subsidiaries and \$10.3 million of Subordinated Debentures issued to its indirect trust subsidiary, plus accrued interest of approximately \$4.9 million and accrued expenses of \$1.0 million. In the aggregate, interest in

an approximate amount of \$900,000 accrues on a yearly basis pursuant to these three series of Subordinated Debentures. BHBC states that there is no public market for the Subordinated Debentures or the trust preferred securities. Under the terms of the Subordinated Debentures, BHBC may defer interest payments for up to 20 consecutive quarters.<sup>2</sup> On January 29, 2009, BHBC elected to exercise this right and had been able to defer payments on the debentures until March 6, 2014. BHBC was not in default under the Subordinated Debentures through the deferral periods, however, BHBC is now in default under the debentures.

6. In March 2014, BHBC was contacted by the holders of some of the debentures, and entered into negotiations with those holders regarding payment of the debentures. On April 10, 2014, a former director of BHBC filed an action against BHBC seeking a temporary restraining order preventing BHBC from making payments on the debentures in light of BHBC's indemnification obligations to its directors. The temporary restraining order was granted. Subsequently, on April 15, 2014, BHBC filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code. BHBC continues to operate its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

7. BHBC may be subject to contingent liabilities of uncertain amounts related to claims associated with its former operations, as well as regulatory and stockholder claims in connection with the failure of the Bank. In addition, current and former directors and officers of the Bank are subject to two pending actions (the "Actions") in connection with the failure of the Bank. These are: (a) An administrative action brought by the FDIC in 2011 against two former officers (one of whom has settled) seeking certain administrative sanctions and penalties; and (b) a lawsuit brought by the FDIC in April, 2012 against the Bank's former directors (including all four current members of the board of directors of BHBC) and several former officers of the Bank for negligence, gross negligence, and breach of fiduciary duty in connection with their activities with the Bank. The latter action seeks \$100.6 million in damages related to losses allegedly incurred by the Bank on certain loans.

<sup>2</sup> During the period when interest payments are being deferred, interest continues to accrue, compounding quarterly, at an annual rate equal to the interest in effect for such period and must be paid at the end of the deferral period.

8. BHBC states that it is subject to indemnification and expense obligations in connection with various actions brought against its current and former directors, officers, employees or agents. As a result, BHBC is indemnifying these directors and officers in connection with the Actions. The potential amount of the indemnification claim is unknown.

9. Since the Bank was placed into receivership, BHBC has had no active business or operations. Within several months of the receivership, BHBC terminated all employees, and since that time has paid two consultants on an hourly basis primarily for administrative and accounting services. BHBC does not maintain an office and is managed by its four member board of directors, which has considered various alternatives, including liquidation and acquisition of an operating business, while preserving its assets. BHBC states that because of its financial condition and contingent liabilities, pursuing these courses of action has not been feasible.

#### **Applicant's Legal Analysis**

1. Section 3(a)(1)(A) of the Act defines an investment company as any issuer who "is or holds itself out as being engaged primarily . . . in the business of investing, reinvesting or trading in securities." Section 3(a)(1)(C) of the Act further defines an investment company as an issuer who is engaged in the business of investing in securities that have a value in excess of 40% of the issuer's total assets (excluding government securities and cash).

2. Section 6(c) of the Act provides that the Commission may exempt any person from any provision of the Act if 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. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, shall apply to the company and other persons dealing with the company, as if such company were a registered investment company.

3. BHBC acknowledges that it may be deemed to fall within one of the Act's definitions of an investment company. Accordingly, BHBC requests an order of the Commission pursuant to sections 6(c) and 6(e) of the Act exempting it from all provisions of the Act, subject to certain exceptions described below. BHBC requests an exemption until the earlier of one year from the date of the

requested order or such time as it would no longer be required to register as an investment company under the Act. During the term of the proposed exemption, BHBC states that it will comply with sections 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder, subject to certain modifications described in the application.

4. BHBC requests exemptive relief to the extent necessary to permit it to hold certain types of instruments that may be considered "securities", as defined in section 2(a)(36) under the Act, such as short-term U.S. government securities, certificates of deposit and deposit accounts with banks that are insured by the FDIC, shares of registered money market funds, and any instruments that are eligible for investment by money market funds consistent with rule 2a-7 under the Act (collectively, "Permitted Securities") without being required to register as an investment company under the Act. BHBC requests this relief in order to permit it to preserve the value of its assets for the benefit of its security holders, and submits that this relief is necessary and appropriate for the public interest.

5. In determining whether to grant relief for a company in an extended transition period, the following factors are considered: (a) Whether the failure of the company to become primarily engaged in a non-investment business or excepted business or to liquidate within one year was due to factors beyond its control; (b) whether the company's officers and employees during that period tried, in good faith, to effect the company's investment of its assets in a non-investment business or excepted business or to cause the liquidation of the company; and (c) whether the company invested in securities solely to preserve the value of its assets. BHBC believes that it meets these criteria.

6. BHBC believes its failure to become primarily engaged in a non-investment business or to liquidate within a year following the receivership of the Bank is due to factors beyond its control. The board of directors of BHBC has regularly considered the feasibility of liquidating or engaging in an operating non-investment business and concluded that it is currently not feasible to commence or acquire a non-investment business or liquidate as a result of BHBC's negative net worth and the uncertainties associated with actual and potential litigation and regulatory claims. BHBC states that the contingent liabilities make it impossible to liquidate BHBC and distribute its assets to creditors and make it imprudent to utilize any

substantial part of its assets in an operating business. BHBC states that these circumstances are unlikely to change over the requested one-year period in light of the nature of the actual and contingent liabilities. BHBC states that it has invested its liquid assets solely to preserve the value of its assets and has invested solely in Permitted Securities since the Prior Order. BHBC does not believe its current ownership of certain loans acquired prior to its receivership is inconsistent with its purpose of preserving the value of its assets for the benefit of its security holders. BHBC thus believes that the public interest will be best served by permitting it to continue to invest in Permitted Securities while its liabilities are resolved.

#### **Applicant's Conditions**

Applicant agrees that the requested order will be subject to the following conditions:

1. BHBC will not purchase or otherwise acquire any securities other than Permitted Securities, except that BHBC may acquire equity securities of an issuer that is not an "investment company" as defined in section 3(a) of the Act or is relying on an exclusion from the definition of "investment company" under section 3(c) of the Act other than section 3(c)(1) or 3(c)(7), in connection with the acquisition of an operating business as evidenced by a resolution approved by BHBC's board of directors. BHBC may continue to hold the Subsidiary Assets.

2. BHBC will not hold itself out as being engaged in the business of investing, reinvesting, owning, holding, or trading in securities.

3. BHBC will not make any primary or secondary public offerings of its securities, and it will notify its stockholders that an exemptive order has been granted pursuant to sections 6(c) and 6(e) of the Act and that BHBC and other persons, in their transactions and relations with BHBC, are subject to sections 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act, and the rules thereunder, as if BHBC were a registered investment company, except as permitted by the order requested hereby.

4. Notwithstanding sections 17(a) and 17(d) of the Act, an affiliated person (as defined in section 2(a)(3) of the Act) of BHBC may engage in a transaction that otherwise would be prohibited by these sections with BHBC:

(a) If such proposed transaction is first approved by a bankruptcy court on the basis that (i) the terms thereof, including the consideration to be paid or received, are reasonable and fair to BHBC, and (ii)

the participation of BHBC in the proposed transaction will not be on a basis less advantageous to BHBC than that of other participants; and

(b) in connection with each such transaction, BHBC shall inform the bankruptcy court of: (i) The identity of all of its affiliated persons who are parties to, or have a direct or indirect financial interest in, the transaction; (ii) the nature of the affiliation; and (iii) the financial interests of such persons in the transaction.

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

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2014-12231 Filed 5-27-14; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31062; 812-14276]

### Morgan Stanley Smith Barney LLC and Morgan Stanley Global Investment Solutions; Notice of Application

May 21, 2014.

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

**ACTION:** Notice of an application under (a) section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 2(a)(35), 14(a), 19(b), 22(d) and 26(a)(2)(C) of the Act and rules 19b-1 and rule 22c-1 thereunder and (b) sections 11(a) and 11(c) of the Act for approval of certain exchange and rollover privileges.

*Applicants:* Morgan Stanley Smith Barney LLC ("MSSB") and Morgan Stanley Global Investment Solutions ("MSGIS").<sup>1</sup>

*Summary of Application:* Applicants request an order to permit certain unit investment trusts to: (a) Impose sales charges on a deferred basis and waive the deferred sales charge in certain cases; (b) offer unitholders certain exchange and rollover options; (c) publicly offer units without requiring the Depositor to take for its own account \$100,000 worth of units; and (d)

distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt.

*Filing Dates:* The application was filed on February 11, 2014 and amended on May 5, 2014.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 16, 2014, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090; Applicants, 2000 Westchester Avenue, Purchase, NY 10577.

**FOR FURTHER INFORMATION CONTACT:** Bruce R. MacNeil, Senior Counsel, at (202) 551-6817, or Daniele Marchesani, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

#### Applicants' Representations

1. MSGIS is a unit investment trust ("UIT") that will be registered under the Act. Any future Trust will be a registered UIT. MSSB, a Delaware limited liability company, is registered under the Securities Exchange Act of 1934 as a broker-dealer and is the Depositor of MSGIS. Each Series will be created by a trust indenture between the Depositor and a banking institution or trust company as trustee ("Trustee").

2. The Depositor acquires a portfolio of securities, which it deposits with the Trustee in exchange for units of fractional undivided interest in the Series' portfolio ("Units"). The Units are offered to the public through the Depositor and dealers at a price which, during the initial offering period, is based upon the aggregate market value

of the underlying securities, or, the aggregate offering side evaluation of the underlying securities if the underlying securities are not listed on a securities exchange, plus a front-end sales charge, a deferred sales charge or both. The maximum sales charge may be reduced in compliance with rule 22d-1 under the Act in certain circumstances, which are disclosed in the Series' prospectus.

3. The Depositor may, but is not legally obligated to, maintain a secondary market for Units of an outstanding Series. Other broker-dealers may or may not maintain a secondary market for Units of a Series. If a secondary market is maintained, investors will be able to purchase Units on the secondary market at the current public offering price plus a front-end sales charge. If such a market is not maintained at any time for any Series, holders of the Units ("Unitholders") of that Series may redeem their Units through the Trustee.

#### A. Deferred Sales Charge and Waiver of Deferred Sales Charge under Certain Circumstances

1. Applicants request an order to the extent necessary to permit one or more Series to impose a sales charge on a deferred basis ("DSC"). For each Series, the Depositor would set a maximum sales charge per Unit, a portion of which may be collected "up front" (i.e., at the time an investor purchases the Units). The DSC would be collected subsequently in installments ("Installment Payments") as described in the application. The Depositor would not add any amount for interest or any similar or related charge to adjust for such deferral.

2. When a Unitholder redeems or sells Units, the Depositor intends to deduct any unpaid DSC from the redemption or sale proceeds. When calculating the amount due, the Depositor will assume that Units on which the DSC has been paid in full are redeemed or sold first. With respect to Units on which the DSC has not been paid in full, the Depositor will assume that the Units held for the longest time are redeemed or sold first. Applicants represent that the DSC collected at the time of redemption or sale, together with the Installment Payments and any amount collected up front, will not exceed the maximum sales charge per Unit. Under certain circumstances, the Depositor may waive the collection of any unpaid DSC in connection with redemptions or sales of Units. These circumstances will be disclosed in the prospectus for the relevant Series and implemented in accordance with rule 22d-1 under the Act.

<sup>1</sup> Applicants also request relief for future unit investment trusts (collectively, with MSGIS, the "Trusts") and series of the Trusts ("Series") that are sponsored by MSSB or any entity controlling, controlled by or under common control with MSSB (together with MSSB, the "Depositors"). Any future Trust or Series that relies on the requested order will comply with the terms and conditions of the application. All existing entities that currently intend to rely on the requested order are named as applicants.