

Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

**Extension:**

Regulation S; OMB Control No. 3235-0357; SEC File No. 270-315.

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 this request for extension of the previously approved collection of information discussed below.

Regulation S (17 CFR 230.901 through 230.905) includes rules governing offers and sales of securities made outside the United States without registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The purpose of Regulation S is to provide clarification of the extent to which Section 5 of the Securities Act applies to sales and re-sales of securities outside of the United States. Regulation S is assigned one burden hour for administrative convenience.

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 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 or send an e-mail to [Alexander\\_T.\\_Hunt@omb.eop.gov](mailto:Alexander_T._Hunt@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-17576 Filed 9-5-07; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor

Education and Advocacy, Washington, DC 20549-0213.

Approval of Existing Information Collection: Rule 17a-8; SEC File No. 270-225; OMB Control No. 3235-0235.

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 of the previously approved collection of information discussed below.

Rule 17a-8 (17 CFR 270.17a-8) under the Investment Company Act of 1940 (the "Act") (15 U.S.C. 80a) is entitled "Mergers of affiliated companies." Rule 17a-8 exempts certain mergers and similar business combinations ("mergers") of affiliated registered investment companies ("funds") from prohibitions under section 17(a) of the Act (15 U.S.C. 80a-17(a)) on purchases and sales between a fund and its affiliates. The rule requires fund directors to consider certain issues and to record their findings in board minutes. The rule requires the directors of any fund merging with an unregistered entity to approve procedures for the valuation of assets received from that entity. These procedures must provide for the preparation of a report by an independent evaluator that sets forth the fair value of each such asset for which market quotations are not readily available. The rule also requires a fund being acquired to obtain approval of the merger transaction by a majority of its outstanding voting securities, except in certain situations, and requires any surviving fund to preserve written records describing the merger and its terms for six years after the merger (the first two in an easily accessible place).

The average annual burden of meeting the requirements of rule 17a-8 is estimated to be 7 hours for each fund. The Commission staff estimates that each year approximately 920 funds rely on the rule. The estimated total average annual burden for all respondents therefore is 6,440 hours.

This estimate represents an increase of 2,240 hours from the prior estimate of 4,200 hours. The increase results from an increase in the estimated number of mergers of affiliated funds and fund portfolios.

The average cost burden of preparing a report by an independent evaluator in a merger with an unregistered entity is estimated to be \$15,000. The average net cost burden of obtaining approval of a merger transaction by a majority of a fund's outstanding voting securities is

estimated to be \$75,000. The Commission staff estimates that each year approximately 15 mergers with unregistered entities occur and approximately 22 funds hold shareholder votes that would not otherwise have held a shareholder vote to comply with state law. The total annual cost burden of meeting these requirements is estimated to be \$1,875,000

The estimates of average burden hours and average cost burdens 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. 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 Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: [Alexander\\_T.\\_Hunt@omb.eop.gov](mailto:Alexander_T._Hunt@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

**Florence E. Harmon,**

*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 Investor Education and Advocacy, Washington, DC 20549-0213.

**Extension:**

Rule 17f-4; SEC File No. 270-232; OMB Control No. 3235-0225.

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

previously approved collection of information discussed below.

Section 17(f) (15 U.S.C. 80a-17(f)) under the Investment Company Act of 1940 (the "Act")<sup>1</sup> permits registered management investment companies and their custodians to deposit the securities they own in a system for the central handling of securities ("securities depositories"), subject to rules adopted by the Securities and Exchange Commission ("Commission").

Rule 17f-4 (17 CFR 270.17f-4) under the Act specifies the conditions for the use of securities depositories by funds<sup>2</sup> and custodians. The Commission staff estimates that 129 respondents (including 40 active funds, 73 custodians, and 16 possible securities depositories)<sup>3</sup> are subject to the requirements in rule 17f-4. The rule is elective, but most, if not all, funds use depository custody arrangements.<sup>4</sup>

Rule 17f-4 contains two general conditions. First, a fund's custodian must be obligated, at a minimum, to exercise due care in accordance with reasonable commercial standards in discharging its duty as a securities intermediary to obtain and thereafter maintain financial assets.<sup>5</sup> This obligation does not contain a collection of information because it does not impose identical reporting, recordkeeping or disclosure requirements. Funds and custodians may determine the specific measures the custodian will take to comply with this obligation.<sup>6</sup> If the fund deals directly with a depository, the depository's contract or written rules for

its participants must provide that the depository will meet similar obligations.<sup>7</sup> All funds that seek to rely on rule 17f-4 should have either modified their contracts with the relevant securities depository, or negotiated a modification in the securities depository's written rules when the rule was amended. Therefore, this was a one-time event and does not contain a collection of information.<sup>8</sup>

Second, the custodian must provide, promptly upon request by the fund, such reports as are available about the internal accounting controls and financial strength of the custodian.<sup>9</sup> If a fund deals directly with a depository, the depository's contract with or written rules for its participants must provide that the depository will provide similar financial reports.<sup>10</sup> Custodians and depositories usually transmit financial reports to funds twice a year.<sup>11</sup> The Commission staff estimates that 73 custodians spend 920 hours (by support staff) annually in transmitting such reports to funds.<sup>12</sup> In addition, approximately 40 funds (*i.e.*, one percent of all funds) deal directly with a securities depository and may request periodic reports from their depository. Commission staff estimates that, for each of the 40 funds, depositories spend 9 hours (by support staff) annually transmitting reports to the funds.<sup>13</sup> The total annual burden estimate for compliance with rule 17f-4's reporting requirement is therefore 929 hours.<sup>14</sup>

<sup>7</sup> Rule 17f-4(b)(1)(i).

<sup>8</sup> The Commission staff assumes that new funds relying on rule 17f-4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus new funds would not be subject to this condition.

<sup>9</sup> Rule 17f-4(a)(2).

<sup>10</sup> Rule 17f-4(b)(1)(ii).

<sup>11</sup> The 73 custodians would handle requests for reports from 3950 fund clients (approximately 54 fund clients per custodian) and the depositories from the remaining 40 funds that choose to deal directly with a depository. It is our understanding based on staff conversations with representatives of custodians that custodians and depositories transmit these reports to clients as a good business practice regardless of whether they are requested. Therefore, for purposes of this Paperwork Reduction Act calculation, the Commission staff assumes that custodians transmit the reports to all fund clients.

<sup>12</sup> (73 custodians × 2 reports) = 146 reports × 54 fund clients per custodian = 7,884 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of 920 hours (7 minutes × 7,884 transmissions). The estimate of time to transmit reports is based on staff conversations with representatives of custodians.

<sup>13</sup> (16 depositories × 2 reports) = 32 reports × 2.5 fund clients per depository = 80 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of 9 hours (7 minutes × 80 transmissions).

<sup>14</sup> 920 hours for custodians and 9 hours for securities depositories.

If a fund deals directly with a securities depository, rule 17f-4 requires that the fund implement internal control systems reasonably designed to prevent an unauthorized officer's instructions (by providing at least for the form, content, and means of giving, recording, and reviewing all officers' instructions).<sup>15</sup> All funds that seek to rely on rule 17f-4 should have already implemented these internal control systems when the rule was amended. Therefore, this is a one-time event and does not contain an ongoing collection of information requirement.<sup>16</sup>

Based on the foregoing, the Commission staff estimates that the total annual hour burden of the rule's collection of information requirement is 929 hours.

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

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Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to:

*Alexander.T.Hunt@omb.eop.gov*; and

(ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA\_Mailbox@sec.gov*.

Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>15</sup> Rule 17f-4(b)(2).

<sup>16</sup> The Commission staff assumes that new funds relying on rule 17f-4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus new funds would not be subject to this condition.

<sup>1</sup> 15 U.S.C. 80a.

<sup>2</sup> As amended in 2003, rule 17f-4 permits any registered investment company, including a unit investment trust or a face-amount certificate company, to use a security depository. See Custody of Investment Company Assets With a Securities Depository, Investment Company Act Release No. 25934 (Feb. 13, 2003) (68 FR 8438 (Feb. 20, 2003)). The term "fund" is used in this Notice to mean a registered investment company.

<sup>3</sup> The Commission staff estimates that, as permitted by the rule, 1% of all active funds deal directly with a securities depository instead of using an intermediary. The number of custodians is from Lipper Inc.'s Lana Database. Securities depositories include the 12 Federal Reserve Banks and 4 registered depositories.

<sup>4</sup> Based on responses to Item 18 of Form N-SAR (17 CFR 274.101), approximately 99 percent of all funds now use depository custody arrangements. As of March 30, 2007, approximately 3990 funds out of the 4030 active funds relied on rule 17f-4.

<sup>5</sup> Rule 17f-4(a)(1). This provision incorporates into the rule the standard of care provided by section 504(c) of Article 8 of the Uniform Commercial Code when the parties have not agreed to a standard. Rule 17f-4 does not impose any substantive obligations beyond those contained in Article 8. Uniform Commercial Code, Revised Article 8—Investment Securities (1994 Official Text With Comments) ("Revised Article 8").

<sup>6</sup> Moreover, the rule does not impose any requirement regarding evidence of the obligation.