

property from, or selling or buying securities or other property to or from the fund, or any company that the fund controls. Section 2(a)(3) of the Act (15 U.S.C. 80a-2(a)(3)(E)) defines "affiliated person" of a fund to include its investment advisers. Rule 17a-10 (17 CFR 270.17a-10) permits (i) a subadviser of a fund to enter into transactions with funds the subadviser does not advise but which are affiliated persons of a fund that it does advise (e.g., other funds in the fund complex), and (ii) a subadviser (and its affiliated persons) to enter into transactions and arrangements with funds the subadviser does advise, but only with respect to discrete portions of the subadvised fund for which the subadviser does not provide investment advice.

To qualify for the exemptions in rule 17a-10, the subadvisory relationship must be the sole reason why section 17(a) prohibits the transaction; and the advisory contracts of the subadviser entering into the transaction, and any subadviser that is advising the purchasing portion of the fund, must prohibit the subadvisers from consulting with each other concerning securities transactions of the fund, and limit their responsibility to providing advice with respect to discrete portions of the fund's portfolio.<sup>1</sup>

The Commission staff estimates that 3583 portfolios of approximately 649 fund complexes use the services of one or more subadvisers. Based on discussions with industry representatives, the staff estimates that it requires approximately 6 hours to draft and execute revised subadvisory contracts allowing funds and subadvisers to rely on the exemptions in rule 17a-10.<sup>2</sup> The staff assumes that all existing funds amended their advisory contracts following the adoption of rule 17a-10 in 2003 that conditioned certain exemptions upon these contractual alterations, and therefore there is no continuing burden for those funds.<sup>3</sup>

Based on an analysis of fund filings, the staff estimates that approximately 600 fund portfolios enter into new subadvisory agreements each year.<sup>4</sup>

Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours<sup>5</sup> to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 17a-10. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 10f-3, 12d3-1, and 17e-1, and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally among all four rules. Therefore, we estimate that the burden allocated to rule 17a-10 for this contract change would be 0.75 hours.<sup>6</sup> Assuming that all 600 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 450 burden hours annually, with an associated cost of approximately \$131,400.<sup>7</sup>

*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 R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way,

December 2005 and December 2006. Based on information in Commission filings, we estimate that 31 percent of funds are advised by subadvisers.

<sup>5</sup> The Commission staff's estimates concerning the wage rates for attorney time are based on salary information for the securities industry compiled by the Securities Industry Association. The \$292 per hour figure for an attorney is from the SIA Report on Management & Professional Earnings in the Securities Industry 2006, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

<sup>6</sup> This estimate is based on the following calculation (3 hours ÷ 4 rules = .75 hours).

<sup>7</sup> These estimates are based on the following calculations: (0.75 hours × 600 portfolios = 450 burden hours); (\$292 per hour × 450 hours = \$131,400 total cost).

Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: February 19, 2008.

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213

Extension:

Rule 206(4)-6; SEC File No. 270-513; OMB Control No. 3235-0571

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

The title for the collection of information is "Rule 206(4)-6" under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 *et seq.*) ("Advisers Act") and the collection has been approved under OMB Control No. 3235-0571. The Commission adopted rule 206(4)-6 (17 CFR 275.206(4)-6), the proxy voting rule, to address an investment adviser's fiduciary obligation to clients who have given the adviser authority to vote their securities. Under the rule, an investment adviser that exercises voting authority over client securities is required to: (i) Adopt and implement policies and procedures that are reasonably designed to ensure that the adviser votes securities in the best interest of clients, including procedures to address any material conflict that may arise between the interest of the adviser and the client; (ii) disclose to clients how they may obtain information on how the adviser has voted with respect to their securities; and (iii) describe to clients the advisers' proxy voting policies and procedures and, on request, furnish a copy of the policies and procedures to the requesting client. The rule is designed to assure that advisers that vote proxies for their clients vote those proxies in their clients' best interest and provide

<sup>1</sup> See 17 CFR 270.17a-10(a)(2).

<sup>2</sup> Rules 12d3-1, 10f-3, 17a-10, and 17e-1 require virtually identical modifications to fund advisory contracts. The Commission staff assumes that funds would rely equally on the exemptions in these rules, and therefore the burden hours associated with the required contract modifications should be apportioned equally among the four rules.

<sup>3</sup> We assume that funds formed after 2002 that intended to rely on rule 17a-10 would have included the required provision as a standard element in their initial subadvisory contracts.

<sup>4</sup> The use of subadvisers has grown rapidly over the last several years, with approximately 600 portfolios that use subadvisers registering between

clients with information about how their proxies were voted.

Rule 206(4)–6 contains “collection of information” requirements within the meaning of the Paperwork Reduction Act. The respondents are investment advisers registered with the Commission that vote proxies with respect to clients’ securities. Advisory clients of these investment advisers use the information required by the rule to assess investment advisers’ proxy voting policies and procedures and to monitor the advisers’ performance of its proxy voting activities. The information also is used by the Commission staff in its examination and oversight program. Without the information collected under the rules, advisory clients would not have information they need to assess the adviser’s services and monitor the adviser’s handling of their accounts, and the Commission would be less efficient and effective in its programs.

The estimated number of investment advisers subject to the collection of information requirements under the rule is 9,166. It is estimated that each of these advisers is required to spend on average 10 hours annually documenting its proxy voting procedures under the requirements of the proposed rule, for a total burden of 91,660 hours. We further estimate that on average, approximately 101 clients of each adviser, would request copies of the underlying policies and procedures. We estimate that it would take these advisers 0.1 hours per client to deliver copies of the policies and procedures, for a total burden of approximately 92,577 hours. Accordingly, we estimate that rule 206(4)–6 results in an annual aggregate burden of collection for SEC-registered investment advisers by a total of 184,237 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 R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley

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Dated: February 19, 2008.

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

#### Extension:

Rule 482; SEC File No. 270–508; OMB Control No. 3235–0565.

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 (the “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.

Like most issuers of securities, when an investment company<sup>1</sup> (“fund”) offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act of 1933, (15 U.S.C. 77) as amended (the “Securities Act”). In recognition of the particular problems faced by funds that continually offer securities and wish to advertise their securities, the Commission has previously adopted advertising safe harbor rules. The most important of these is Rule 482 (17 CFR 230.482) under the Securities Act, which, under certain circumstances, permits funds to advertise investment performance data, as well as other information. Rule 482 advertisements are deemed to be “prospectuses” under section 10(b) of the Securities Act.<sup>2</sup>

Rule 482 contains certain requirements regarding the disclosure that funds are required to provide in qualifying advertisements. These requirements are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment

performance. For example, a fund is required to include disclosure advising investors to consider the fund’s investment objectives, risks, charges and expenses, and other information described in the fund’s prospectus or accompanying profile (if applicable), and highlighting the availability of the fund’s prospectus. In addition, rule 482 advertisements that include performance data of open-end funds or insurance company separate accounts offering variable annuity contracts are required to include certain standardized performance information, information about any sales loads or other nonrecurring fees, and a legend warning that past performance does not guarantee future results. Such funds including performance information in rule 482 advertisements are also required to make available to investors’ month-end performance figures via Web site disclosure or by a toll-free telephone number, and to disclose the availability of the month-end performance data in the advertisement. The rule also sets forth requirements regarding the prominence of certain disclosures, requirements regarding advertisements that make tax representations, requirements regarding advertisements used prior to the effectiveness of the fund’s registration statement, requirements regarding the timeliness of performance data, and certain required disclosures by money market funds.

Rule 482 advertisements must be filed with the Commission or, in the alternative, Financial Industry Regulatory Authority (“FINRA”).<sup>3</sup> This information collection differs from many other federal information collections that are primarily for the use and benefit of the collecting agency.

As discussed above, rule 482 contains requirements that are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. The Commission is concerned that in the absence of such provisions fund investors may be misled by deceptive rule 482 performance advertisements and may rely on less-than-adequate information when determining in which funds they should invest their money. As a result, the Commission believes it is beneficial for funds to provide investors with balanced information in fund advertisements in order to allow

<sup>1</sup> “Investment company” refers to both investment companies registered under the Investment Company Act of 1940, as amended, and business development companies.

<sup>2</sup> 15 U.S.C. 77j(b).

<sup>3</sup> See Rule 24b–3 under the Investment Company Act (17 CFR 270.24b–3), which provides that any sales material, including rule 482 advertisements, shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with FINRA.