

the Commission for permission to distribute long-term capital gains more than once a year if the fund did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution.<sup>4</sup> An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application.

Commission staff estimates that, on average, each year six funds file an application under rule 19b-1(e). The staff understands that funds that file an application generally use outside counsel to prepare the application. The cost burden of using outside counsel is discussed below. The staff estimates that, on average, the fund's investment adviser spends a total of approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel, 0.5 hours by an administrative assistant, and the fund's board of directors spends an additional 1 hour, for a total of 5 hours. Thus, the Commission staff estimates that the annual hour burden of the collection of information imposed by rule 19b-1 is approximately five hours per fund, for a total burden of 30 hours.

The Commission staff estimates that there is no hourly burden associated with complying with the collection of information component of rule 19b-1(c).

As noted above, the Commission staff understands that funds that file an application under rule 19b-1(e) generally use outside counsel to prepare the application.<sup>5</sup> The staff estimates that, on average, outside counsel spends 10 hours preparing a rule 19b-1(e) application, including eight hours by an associate and two hours by a partner. Outside counsel billing arrangements and rates vary based on numerous factors, but the staff has estimated the average cost of outside counsel as \$400 per hour, based on information received from funds, intermediaries, and their counsel. The staff therefore estimates that the average cost of outside counsel preparation of the 19b-1(e) exemptive application is \$4,000.<sup>6</sup> Thus, the staff estimates that the total annual cost burden imposed by the exemptive

<sup>4</sup> Rule 19b-1(e) also requires that the application comply with rule 0-2 [17 CFR 270.02], which sets forth the general requirements for papers and applications filed with the Commission.

<sup>5</sup> This understanding is based on conversations with representatives from the fund industry.

<sup>6</sup> This estimate is based on the following calculation: 10 hours multiplied by \$400 per hour equals \$4,000.

application requirements of rule 19b-1(e) is \$24,000.<sup>7</sup>

The Commission staff estimates that there are approximately 3759 UITs<sup>8</sup> that may rely on rule 19b-1(c) to make capital gains distributions. The staff estimates that, on average, these UITs rely on rule 19b-1(c) once a year to make a capital gains distribution.<sup>9</sup> In most cases, the trustee of the UIT is responsible for preparing and sending the notices that must accompany a capital gains distribution under rule 19b-1(c)(2). These notices require limited preparation, the cost of which accounts for only a small, indiscrete portion of the comprehensive fee charged by the trustee for its services to the UIT. The staff believes that as a matter of good business practices, and for tax preparation reasons, UITs would collect and distribute the capital gains information required to be sent to unitholders under rule 19b-1(c) even in the absence of the rule. The staff estimates that the cost of preparing a notice for a capital gains distribution under rule 19b-1(c)(2) is approximately \$50. There is no separate cost to mail the notices because they are mailed with the capital gains distribution. Thus, the staff estimates that the capital gains distribution notice requirement imposes an annual cost on UITs of approximately \$187,950.<sup>10</sup> The staff therefore estimates that the total cost imposed by rule 19b-1 is \$211,950 (\$187,950 plus \$24,000 equals \$211,950).

Based on these calculations, the total number of respondents for rule 19b-1 is estimated to be 3,765 (3759 UIT portfolios + 6 funds filing an application under rule 19b-1(e)), the total annual hour burden is estimated to be 30 hours, and the total annual cost burden is estimated to be \$211,950. These estimates of average annual burden hours and costs are made solely for purposes of the Paperwork Reduction Act. The collections of information required by 19b-1(c) and 19b-1(e) are necessary to obtain the benefits

<sup>7</sup> This estimate is based on the following calculation: \$4,000 multiplied by 6 (funds) equals \$24,000.

<sup>8</sup> The Investment Company Institute, Unit Investment Trust Data, (January 2011).

<sup>9</sup> The number of times UITs rely on the rule to make capital gains distributions depends on a wide range of factors and, thus, can vary greatly across years. A number of UITs are organized as grantor trusts, and therefore do not generally make capital gains distributions under rule 19b-1(c), or may not rely on rule 19b-1(c) as they do not meet the rule's requirements. Other UITs may distribute capital gains biannually, annually, quarterly, or at other intervals.

<sup>10</sup> This estimate is based on the following calculation: 3,759 UITs multiplied by \$50 equals \$187,950.

described above. Responses will not be kept 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 control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission'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 Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 15, 2011.

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011-6366 Filed 3-17-11; 8:45 am]

**BILLING CODE 8011-01-P**

## 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 17f-5; SEC File No. 270-259; OMB Control No. 3235-0269.

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

Rule 17f-5 under the Investment Company Act of 1940 (15 U.S.C. 80a) ("Investment Company Act" or "Act")

governs the custody of the assets of registered management investment companies ("funds") with custodians outside the United States.<sup>1</sup> Under Rule 17f-5, the fund's board of directors must find that it is reasonable to rely on each delegate it selects to act as the fund's foreign custody manager. The delegate must agree to provide written reports that notify the board when the fund's assets are placed with a foreign custodian and when any material change occurs in the fund's custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care. When the foreign custody manager selects an eligible foreign custodian, it must determine that the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the performance of the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f-5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,<sup>2</sup> and that is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and

under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager periodically reviews each custody arrangement and takes appropriate action if developing custody risks may threaten fund assets.

Commission staff estimates that each year, approximately 135 registrants<sup>3</sup> could be required to make an average of one response per registrant under rule 17f-5, requiring approximately 2.5 hours of board of director time per response, to make the necessary findings concerning foreign custody managers. The total annual burden associated with these requirements of the rule is up to approximately 337.5 hours (135 registrants × 2.5 hours per registrant). The staff further estimates that during each year, approximately 15 global custodians<sup>4</sup> are required to make an average of 4 responses per custodian concerning the use of foreign custodians other than depositories. The staff estimates that each response will take approximately 270 hours, requiring approximately 1,080 total hours annually per custodian. The total annual burden associated with these requirements of the rule is approximately 16,200 hours (15 global custodians × 1,080 hours per custodian). Therefore, the total annual burden of all collection of information requirements of rule 17f-5 is estimated to be up to 16,537.5 hours (337.5 + 16,200). The total annual cost of burden hours is estimated to be \$4,914,000 (337.5 hours × \$4,000/hour for board of director's time, plus 16,200 hours × \$220/hour for a trust administrator's time).<sup>5</sup> Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to

<sup>3</sup> This figure is an estimate of the number of new funds each year, based on data reported by funds in 2010 on Form N-1A and Form N-2. In practice, not all funds will use foreign custody managers, and the actual figure may be smaller.

<sup>4</sup> This estimate is based on staff research.

<sup>5</sup> The board hourly rate is based on fund industry representations. The \$220/hour figure for a trust administrator is from SIFMA's Management & Professional Earnings in the Securities Industry 2010, modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

maintain their assets in foreign custodians.

The estimate of average burden hours is 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 and forms.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission'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 Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: March 15, 2011.

**Cathy H. Ahn,**  
Deputy Secretary.

[FR Doc. 2011-6365 Filed 3-17-11; 8:45 am]

**BILLING CODE 8011-01-P**

## 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 17f-7; SEC File No. 270-470;  
OMB Control No. 3235-0529.

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") 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 ("OMB") for extension and approval.

Rule 17f-7 (17 CFR 270.17f-7) permits funds to maintain their assets in

<sup>1</sup> 17 CFR 270.17f-5. All references to rules 17f-5, 17f-7, 17d-1, or 19b-1 in this notice are to 17 CFR 270.17f-5, 17 CFR 270.17f-7, 17 CFR 270.17d-1, and 17 CFR 270.19b-1, respectively.

<sup>2</sup> See section 17(f) of the Investment Company Act (15 U.S.C. 80a-17(f)).