

Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Shagufta\_Ahmed@omb.eop.gov*; and (ii) 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*. Comments must be submitted within 30 days of this notice.

April 11, 2011.

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011-9187 Filed 4-14-11; 8:45 am]

**BILLING CODE 8011-01-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.

#### Extension:

Rule 17d-1; SEC File No. 270-505; OMB Control No. 3235-0562.

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 ("OMB") a request for extension of the previously approved collection of information discussed below.

Section 17(d) (15 U.S.C. 80a-17(d)) of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) (the "Act") prohibits first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled by the fund is a joint or a joint and several participant in contravention of the Commission's rules. Rule 17d-1 (17 CFR 270.17d-1) prohibits an affiliated person of or principal underwriter for any fund (a "first-tier affiliate"), or any affiliated person of such person or underwriter (a "second-tier affiliate"), acting as principal, from participating in or effecting any transaction in connection with a joint enterprise or other joint arrangement in which the fund is a participant, unless prior to entering into the enterprise or arrangement "an application regarding

[the transaction] has been filed with the Commission and has been granted by an order." In reviewing the proposed affiliated transaction, the rule provides that the Commission will consider whether the proposal is (i) consistent with the provisions, policies, and purposes of the Act, and (ii) on a basis different from or less advantageous than that of other participants in determining whether to grant an exemptive application for a proposed joint enterprise, joint arrangement, or profit-sharing plan.

Rule 17d-1 also contains a number of exceptions to the requirement that a fund must obtain Commission approval prior to entering into joint transactions or arrangements with affiliates. For example, funds do not have to obtain Commission approval for certain employee compensation plans, certain tax-deferred employee benefit plans, certain transactions involving small business investment companies, the receipt of securities or cash by certain affiliates pursuant to a plan of reorganization, certain arrangements regarding liability insurance policies and transactions with "portfolio affiliates" (companies that are affiliated with the fund solely as a result of the fund (or an affiliated fund) controlling them or owning more than five percent of their voting securities) so long as certain other affiliated persons of the fund (e.g., the fund's adviser, persons controlling the fund, and persons under common control with the fund) are not parties to the transaction and do not have a "financial interest" in a party to the transaction. The rule excludes from the definition of "financial interest" any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material, as long as the board records the basis for its finding in their meeting minutes.

Thus, the rule contains two filing and recordkeeping requirements that constitute collections of information. First, rule 17d-1 requires funds that wish to engage in a joint transaction or arrangement with affiliates to meet the procedural requirements for obtaining exemptive relief from the rule's prohibition on joint transactions or arrangements involving first- or second-tier affiliates. Second, rule 17d-1 permits a portfolio affiliate to enter into a joint transaction or arrangement with the fund if a prohibited participant has a financial interest that the fund's board determines is not material and records the basis for this finding in their meeting minutes. These requirements of rule 17d-1 are designed to prevent fund insiders from managing funds for their

own benefit, rather than for the benefit of the funds' shareholders.

Based on an analysis of past filings, Commission staff estimates that 8 funds file applications under section 17(d) and rule 17d-1 per year. The staff understands that funds that file an application generally obtain assistance from outside counsel to prepare the application. The cost burden of using outside counsel is discussed below. Based on a limited survey of persons in the mutual fund industry, the Commission staff estimates that each applicant will spend an average of 154 hours to comply with the Commission's applications process. The Commission staff therefore estimates the annual burden hours per year for all funds under rule 17d-1's application process to be 1,232 hours at a cost of \$445,328.<sup>1</sup> The Commission, therefore, requests authorization to increase the inventory of total burden hours per year for all funds under rule 17d-1 from the current authorized burden of 616 hours to 1,232 hours. The increase is due to an increase in the number of funds that filed applications for exemptions under rule 17d-1.

As noted above, the Commission staff understands that funds that file an application under rule 17d-1 generally use outside counsel to assist in preparing the application.<sup>2</sup> The staff estimates that, on average, funds spend an additional \$93,131 for outside legal services in connection with seeking Commission approval of affiliated joint transactions. Thus, the staff estimates that the total annual cost burden imposed by the exemptive application requirements of rule 17d-1 is \$745,048.<sup>3</sup> Based on staff discussions with fund representatives, we estimate that funds currently do not rely on the exemption from the term "financial interest" with respect to any interest that the fund's

<sup>1</sup> The Commission staff estimates that a senior executive, such as the fund's chief compliance officer, will spend an average of 62 hours and a mid-level compliance attorney will spend an average of 92 hours to comply with this collection of information: 62 hours + 92 hours = 154 hours. 8 funds × 154 burden hours = 1,232 burden hours. The Commission staff estimate that the chief compliance officer is paid \$423 per hour and the compliance attorney is paid \$320 per hour. (\$423 per hour × 62 hours) + (\$320 per hour × 92 hours) = \$55,666 per fund. \$55,666 × 8 funds = \$445,328. The \$423 and \$320 per hour figures are based on salary information compiled by SIFMA's *Management & Professional Earnings in the Securities Industry, 2010*. The Commission staff has modified SIFMA's information to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

<sup>2</sup> This understanding is based on conversations with representatives from the fund industry.

<sup>3</sup> The estimate is based on the following calculation: \$93,131 × 8 funds = \$745,048.

board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. Accordingly, we estimate that annually there will be no transactions under rule 17d-1 that will result in this aspect of the collection of information.

Based on these calculations, the total annual hour burden is estimated to be 1,232 hours and the total annual cost burden is estimated to be \$745,048.

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. Complying with these collections of information requirements is necessary to obtain the benefit of relying on rule 17d-1. 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.

The public may view the background documentation for this information collection at the following Web site, <http://www.reginfo.gov>. Comments should be directed to: (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 by sending an e-mail to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) 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). Comments must be submitted to OMB within 30 days of this notice.

April 11, 2011.

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

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

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

#### Extension:

Rule 104; SEC File No. 270-411; OMB Control No. 3235-0465.

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 ("OMB") a request for approval of extension of the existing collection of information provided for in the following rule: Rule 104 of Regulation M (17 CFR 242.104).

Rule 104 permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (*i.e.* the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids.

There are approximately 745 respondents per year that require an aggregate total of 149 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 0.20 hours (12 minutes) to complete. Thus, the total compliance burden per year is 149 burden hours. The total internal labor compliance cost for the respondents is approximately \$9,983.00, resulting in an estimate of \$13.40 (*i.e.*, \$9,983.00/745 responses) per response.

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. Background documentation for this information collection may be viewed at the following link, <http://www.reginfo.gov>.

Comments should be directed to (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 by sending an e-mail to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) 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). Comments must be submitted within 30 days of this notice.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64292; File No. SR-ISE-2011-22]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Network Fees

April 11, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 7, 2011, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 ISE is proposing to adopt fees for a 10 Gigabit network connection. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The purpose of this proposed rule change is to amend the Exchange's Schedule of Fees to adopt fees for a 10 Gigabit (GB) network connection. The Exchange currently has a tiered

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

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