

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective Date:* August 24, 2012.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 17, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 15 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2012-45, CP2012-53.

**Stanley F. Mires,**

*Attorney, Legal Policy & Legislative Advice.*

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**BILLING CODE 7710-12-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 10f-3; SEC File No. 270-237; OMB Control No. 3235-0226.

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 a request for extension and approval of the collections of information discussed below.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Act") prohibits a registered investment company ("fund") from purchasing any security during an underwriting or selling syndicate if the fund has certain relationships with a principal underwriter for the security. Congress enacted this provision in 1940 to protect funds and their shareholders by preventing underwriters from "dumping" unmarketable securities on affiliated funds.

Rule 10f-3 (17 CFR 270.10f-3) permits a fund to engage in a securities transaction that otherwise would violate section 10(f) if, among other things: (i)

Each transaction effected under the rule is reported on Form N-SAR; (ii) the fund's directors have approved procedures for purchases made in reliance on the rule, regularly review fund purchases to determine whether they comply with these procedures, and approve necessary changes to the procedures; and (iii) a written record of each transaction effected under the rule is maintained for six years, the first two of which in an easily accessible place. The written record must state: (i) From whom the securities were acquired; (ii) the identity of the underwriting syndicate's members; (iii) the terms of the transactions; and (iv) the information or materials on which the fund's board of directors has determined that the purchases were made in compliance with procedures established by the board.

The rule also conditionally allows managed portions of fund portfolios to purchase securities offered in otherwise off-limits primary offerings. To qualify for this exemption, rule 10f-3 requires that the subadviser that is advising the purchaser be contractually prohibited from providing investment advice to any other portion of the fund's portfolio and consulting with any other of the fund's advisers that is a principal underwriter or affiliated person of a principal underwriter concerning the fund's securities transactions.

These requirements provide a mechanism for fund boards to oversee compliance with the rule. The required recordkeeping facilitates the Commission staff's review of rule 10f-3 transactions during routine fund inspections and, when necessary, in connection with enforcement actions.

The staff estimates that approximately 300 funds engage in a total of approximately 3,700 rule 10f-3 transactions each year.<sup>1</sup> Rule 10f-3 requires that the purchasing fund create a written record of each transaction that includes, among other things, from whom the securities were purchased and the terms of the transaction. The staff estimates<sup>2</sup> that it takes an average fund approximately 30 minutes per transaction and approximately 1,850 hours<sup>3</sup> in the aggregate to comply with this portion of the rule.

The funds also must maintain and preserve these transactional records in accordance with the rule's

recordkeeping requirement, and the staff estimates that it takes a fund approximately 20 minutes per transaction and that annually, in the aggregate, funds spend approximately 1,233 hours<sup>4</sup> to comply with this portion of the rule.

In addition, fund boards must, no less than quarterly, examine each of these transactions to ensure that they comply with the fund's policies and procedures. The information or materials upon which the board relied to come to this determination also must be maintained and the staff estimates that it takes a fund 1 hour per quarter and, in the aggregate, approximately 1,200 hours<sup>5</sup> annually to comply with this rule requirement.

The staff estimates that reviewing and revising as needed written procedures for rule 10f-3 transactions takes, on average for each fund, two hours of a compliance attorney's time per year.<sup>6</sup> Thus, annually, in the aggregate, the staff estimates that funds spend a total of approximately 600 hours<sup>7</sup> on monitoring and revising rule 10f-3 procedures. Based on an analysis of fund filings, the staff estimates that approximately 775 fund portfolios enter into subadvisory agreements each year.<sup>8</sup> Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours 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 10f-3. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 12d3-1, 17a-10, 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 to all four rules. Therefore, we estimate that the burden allocated to rule 10f-3 for this contract change would be 0.75 hours.<sup>9</sup> Assuming that all 775 funds that enter into new subadvisory contracts each year make

<sup>4</sup> This estimate is based on the following calculations: (20 minutes × 3,700 transactions = 74,000 minutes; 74,000 minutes/60 = 1,233 hours).

<sup>5</sup> This estimate is based on the following calculation: (1 hour per quarter × 4 quarters × 300 funds = 1,200 hours).

<sup>6</sup> These averages take into account the fact that in most years, fund attorneys and boards spend little or no time modifying procedures and in other years, they spend significant time doing so.

<sup>7</sup> This estimate is based on the following calculation: (300 funds × 2 hours = 600 hours).

<sup>8</sup> Based on information in Commission filings, we estimate that 44.4 percent of funds are advised by subadvisers.

<sup>9</sup> This estimate is based on the following calculation (3 hours ÷ 4 rules = .75 hours).

<sup>1</sup> These estimates are based on staff extrapolations from filings with the Commission.

<sup>2</sup> Unless stated otherwise, the information collection burden estimates are based on conversations between the staff and representatives of funds.

<sup>3</sup> This estimate is based on the following calculation: (0.5 hours × 3,700 = 1,850 hours).

the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 581 burden hours annually.<sup>10</sup>

The staff estimates, therefore, that rule 10f-3 imposes an information collection burden of 5,665 hours.<sup>11</sup> This estimate does not include the time spent filing transaction reports on Form N-SAR, which is encompassed in the information collection burden estimate for that form.

The collection of information required by rule 10f-3 is necessary to obtain the benefits of the rule. 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 OMB control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](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 email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: August 20, 2012.

**Elizabeth M. Murphy,**

*Secretary.*

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**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 12b-1; SEC File No. 270-188; OMB Control No. 3235-0212.

<sup>10</sup> These estimates are based on the following calculations: (0.75 hours × 775 portfolios = 581 burden hours).

<sup>11</sup> This estimate is based on the following calculation: (1,850 hours + 1,233 hours + 1,200 hours + 600 hours + 581 hours + 201 hours = 5,665 total burden hours).

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") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 12b-1 under the Investment Company Act of 1940 (17 CFR 270.12b-1) permits a registered open-end investment company ("fund" or "mutual fund") to bear expenses associated with the distribution of its shares, provided that the mutual fund complies with certain requirements, including, among other things, that it adopt a written plan ("rule 12b-1 plan") and that it has in writing any agreements relating to the rule 12b-1 plan. The rule in part requires that (i) The adoption or material amendment of a rule 12b-1 plan be approved by the mutual fund's directors, including its independent directors, and, in certain circumstances, its shareholders; (ii) the board review quarterly reports of amounts spent under the rule 12b-1 plan; and (iii) the board, including the independent directors, consider continuation of the rule 12b-1 plan and any related agreements at least annually. Rule 12b-1 also requires mutual funds relying on the rule to preserve for six years, the first two years in an easily accessible place, copies of the rule 12b-1 plan and any related agreements and reports, as well as minutes of board meetings that describe the factors considered and the basis for adopting or continuing a rule 12b-1 plan.

Rule 12b-1 also prohibits funds from paying for distribution of fund shares with brokerage commissions on their portfolio transactions. The rule requires funds that use broker-dealers that sell their shares to also execute their portfolio securities transactions, to implement policies and procedures reasonably designed to prevent: (i) The persons responsible for selecting broker-dealers to effect transactions in fund portfolio securities from taking into account broker-dealers' promotional or sales efforts when making those decisions; and (ii) a fund, its adviser or principal underwriter, from entering into any agreement under which the fund directs brokerage transactions or revenue generated by those transactions to a broker-dealer to pay for distribution of the fund's (or any other fund's) shares.

The board and shareholder approval requirements of rule 12b-1 are designed to ensure that fund shareholders and directors receive adequate information to evaluate and approve a rule 12b-1

plan and, thus, are necessary for investor protection. The requirement of quarterly reporting to the board is designed to ensure that the rule 12b-1 plan continues to benefit the fund and its shareholders. The recordkeeping requirements of the rule are necessary to enable Commission staff to oversee compliance with the rule. The requirement that funds or their advisers implement, and fund boards approve, policies and procedures in order to prevent persons charged with allocating fund brokerage from taking distribution efforts into account is designed to ensure that funds' selection of brokers to effect portfolio securities transactions is not influenced by considerations about the sale of fund shares.

Based on information filed with the Commission by funds, Commission staff estimates that there are approximately 6,771 mutual fund portfolios that have at least one share class subject to a rule 12b-1 plan.<sup>1</sup> However, many of these portfolios are part of an affiliated group of funds, or mutual fund family, that is overseen by a common board of directors. Although the board must review and approve the rule 12b-1 plan for each fund separately, we have allocated the costs and hourly burden related to rule 12b-1 based on the number of fund families that have at least one fund that charges rule 12b-1 fees, rather than on the total number of mutual fund portfolios that individually have a rule 12b-1 plan.<sup>2</sup> Based on information filed with the Commission, the staff estimates that there are approximately 375 fund families with common boards of directors that have at least one fund with a rule 12b-1 plan.

Based on previous conversations with fund representatives, Commission staff estimates that for each of the 375 mutual fund families with a portfolio that has a rule 12b-1 plan, the average annual burden of complying with the rule is 425 hours. This estimate takes into account the time needed to prepare quarterly reports to the board of directors, the board's consideration of those reports, and the board's initial or

<sup>1</sup> This estimate is based on information from the Commission's NSAR database.

<sup>2</sup> This allocation is based on previous conversations with fund representatives on how fund boards comply with the requirements of rule 12b-1. Despite this allocation of hourly burdens and costs, the number of annual responses each year will continue to depend on the number of fund portfolios with rule 12b-1 plans rather than the number of fund families with rule 12b-1 plans. The staff estimates that the number of annual responses per fund portfolio will be four per year (quarterly, with the annual reviews taking place at one of the quarterly intervals). Thus, we estimate that funds will make 27,084 responses (6,771 fund portfolios × 4 responses per fund portfolio = 27,084 responses) each year.