

[www.justice.gov/enrd/Consent\\_Decrees.html](http://www.justice.gov/enrd/Consent_Decrees.html).

**Cherie L. Rogers,**

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

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## OFFICE OF MANAGEMENT AND BUDGET

### Request for Comments on a Proposed Revision of OMB Circular No. A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities"

**AGENCY:** Executive Office of the President, Office of Management and Budget.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The Office of Management and Budget (OMB) request comments on proposed revisions to Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities" (hereinafter, Circular A-119, or, the Circular) in light of changes that have taken place in the world of regulation, standards, and conformity assessment since the Circular was last revised in 1998. These materials are available at [http://www.whitehouse.gov/omb/inforeg\\_infopoltech](http://www.whitehouse.gov/omb/inforeg_infopoltech).

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113; hereinafter known as the NTTAA) codified pre-existing policies on the development and use of voluntary consensus standards in Circular A-119, established additional reporting requirements for agencies, and authorized the National Institute of Standards and Technology (NIST) to coordinate conformity assessment activities. In response, OMB in 1998 issued a revised version of Circular A-119, which remains the current version.

In this notice, OMB is seeking public comment on proposed revisions to the Circular. These proposed revisions reflect the experience gained by U. S. agencies in implementing the Circular since 1998; domestic and international developments in regulatory, standards, and conformity assessment policy; concluding and implementing U.S. trade agreements; and comments received in response to OMB's March 2012 Request for Information on whether and how to supplement Circular A-119.

The proposed revision to Circular A-119 includes the following elements:

**Preference for voluntary consensus standards.** The revised Circular would maintain a strong preference for using voluntary consensus standards in Federal regulation and procurement. It would also acknowledge, however, that there may be some standards not developed using a consensus-driven process that are in use in the market—particularly in the information technology space—and that may be relevant (and necessary) in meeting agency missions and priorities.

**Guidance on use of standards and participation in standards development.** The revised Circular would provide more detailed guidance on how Federal representatives should participate in standards development activities. It would also strengthen the role of agency Standards Executives, encourage better internal coordination and training on standards, and update the provisions on how the U.S. Government manages and reports on the development and use of standards. The Circular would also provide criteria for agencies to consider when examining whether a standard meets agency needs and should be adopted.

**Guidance on conformity assessment.** The revised Circular would encourage agencies to consider international conformity assessment schemes and private sector conformity assessment activities in lieu of conformity assessment activities or schemes developed or carried out by the government, and set out criteria for agencies to consider when they are selecting or designing an appropriate conformity assessment procedure.

**Enhanced transparency.** The proposed revisions would provide guidance to agencies on how they should discuss implementation of the Circular in their rulemakings and guidance documents; encourage agencies to alert the public when considering whether to participate in standards development activities; and set out factors for agencies to consider when incorporating standards by reference in regulation.

**Burden reduction.** The proposed revisions would require agencies to utilize the retrospective review mechanism set out in Executive Orders 13563 and 13610 to implement the Circular, including ensuring that standards incorporated by reference in regulation are updated on a timely basis. The revisions also encourage agencies to work together to reference the same version of a standard in regulation and procurements and coordinate on

conformity assessment requirements, where feasible.

**International considerations.** The proposed revisions incorporate references to trade-related statutory obligations on standards-related measures and direct Federal agencies to consult with USTR on how to comply with international obligations with regard to standards and conformity assessment. They provide guidance on how to identify such obligations, direct agencies to take into account their obligations under Executive Order 13609 when they engage in standards and conformity assessment activities, and encourage greater coordination with respect to the Government's formulation of global strategies on standards, regulation, and international trade.

**DATES:** Comments are requested on the proposed revision to Circular A-119 no later than May 12, 2014.

**ADDRESSES:** All comments should be submitted via <http://www.regulations.gov> or faxed to 202-395-5167. Please submit comments only and include your name, company name (if any), and cite "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities" in all correspondence. All comments received will be posted, without change or redaction, to [www.regulations.gov](http://www.regulations.gov), so commenters should not include information they do not wish to be posted (e.g., personal or confidential business information).

**FOR FURTHER INFORMATION CONTACT** Jasmeet Seehra, Office of Management and Budget, Office of Information and Regulatory Affairs, at [jseehra@omb.eop.gov](mailto:jseehra@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** In Section 12(d) of the NTTAA, Congress stated that Federal agencies "shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities," except when an agency determines that such use "is inconsistent with applicable law or otherwise impractical." (Section 12(d), as amended, is found as a "note" to 15 U.S.C. 272. Congress amended Section 12(d) in 2001, in Section 1115 of Pub. L. 107-107, to include paragraph (4) on "expenses of government personnel.")

In response to the enactment of the NTTAA, OMB prepared a proposed revision to Circular A-119 and issued a **Federal Register** notice seeking public comment on the proposal (see 61 FR 68312 (December 27, 1996)). Following OMB's consideration of the comments, OMB issued a final revision of the

Circular in 1998 63 FR 8546 (February 19, 1998) which can be found on OMB's Web site at [http://www.whitehouse.gov/omb/circulars\\_a119/](http://www.whitehouse.gov/omb/circulars_a119/).

The policies in the Circular are intended to maximize the reliance by agencies on voluntary consensus standards and reduce to a minimum agency reliance on standards other than voluntary consensus standards, including reliance on government-unique standards. The Circular also provides guidance for agencies participating in the work of bodies that develop voluntary consensus standards and describes procedures for satisfying the NTTAA's agency-reporting requirements. In addition, consistent with section 12(b) of the NTTAA, the Circular directs the Secretary of Commerce to issue guidance to agencies in order to coordinate conformity assessment activities. The NIST conformity assessment guidelines, which were issued in 2000, are available at [http://gsi.nist.gov/global/docs/FR\\_FedGuidanceCA.pdf](http://gsi.nist.gov/global/docs/FR_FedGuidanceCA.pdf).

OMB's proposed revisions are meant to provide more detailed guidance to agencies to take into account agency experience under the current Circular in several areas including the Administration's current work in Open Government, developments in regulatory policy and international trade, and changes in technology.

**Howard Shelanski,**

*Administrator, Office of Information and Regulatory Affairs.*

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30908; File No. 812-14211]

### The Gabelli Dividend & Income Trust, et al.; Notice of Application

February 6, 2014.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") requesting an exemption from section 17(a) of the Act, and for an order under section 17(d) of the Act and rule 17d-1 thereunder permitting certain joint transactions.

*Applicants:* The Gabelli Dividend & Income Trust ("Dividend Trust"), The Gabelli Global Small and Mid Cap Value Trust ("Global Trust") (each, a "Fund"

and together, the "Funds") and Gabelli Funds, LLC (the "Adviser").

**SUMMARY:** Summary of Application: Applicants seek an order to permit Dividend Trust to transfer a segment of its assets to Global Trust, a newly formed, wholly-owned subsidiary that is a registered closed-end investment company, and to distribute the shares of Global Trust common stock to the holders of Dividend Trust's common stock.

**DATES:** Filing Dates: The application was filed on September 11, 2013 and amended on January 28, 2014.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 27, 2014 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESS:** Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549-1090; Applicants: Richard T. Prins, Esq., Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036.

**FOR FURTHER INFORMATION CONTACT:** Laura J. Riegel, Senior Counsel, at (202) 551-6873 or Mary Kay Frech, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

#### Applicants' Representations

1. Dividend Trust, a Delaware statutory trust, is registered under the Act as a diversified closed-end management investment company. Dividend Trust seeks to provide a high level of total return on its assets with an emphasis on dividends and income. Under normal market conditions,

Dividend Trust invests at least 80% of its assets in dividend-paying securities or other income-producing securities, and at least 50% of its assets in dividend-paying equity securities. Dividend Trust has a non-fundamental policy that limits investment in securities of non-United States issuers to 35% of its total assets.

2. Global Trust was organized as a Delaware statutory trust on August 19, 2013 and is wholly-owned by Dividend Trust. Global Trust filed a notification of registration on Form N-8A on September 11, 2013 to register under the Act as a diversified closed-end management investment company. Global Trust filed a registration statement under the Securities Act of 1933 (the "1933 Act") on Form N-14 on September 11, 2013 (the "Proxy Statement/Prospectus") and filed a registration statement on Form N-2 on December 10, 2013. Application will be made to list Global Trust's common shares for trading on the New York Stock Exchange. Global Trust seeks to provide long-term capital growth. Under normal market conditions, Global Trust will invest at least 40% of its total assets in the equity securities of companies located outside the United States and in at least three countries. Unlike Dividend Trust, Global Trust may invest without limitation in the equity securities of companies located outside the United States.

3. The Adviser, a New York limited liability company, is registered under the Investment Advisers Act of 1940. The Adviser serves, or will serve, respectively, as the investment adviser to Dividend Trust and Global Trust. Applicants represent that the investment advisory fee structure for Global Trust will be the same as the advisory fee structure for Dividend Trust.

4. The board of trustees of Dividend Trust consists of ten trustees, five of whom are also trustees of the six member board of trustees of Global Trust (each such board of trustees, a "Board" and collectively, the "Boards"). Seven trustees on the Board of Dividend Trust are not "interested persons," as defined in section 2(a)(19) of the Act (the "Independent Trustees"), and five trustees on the Board of Global Trust are Independent Trustees. The President and the Treasurer of Dividend Trust hold the same offices with Global Trust.

5. The Board of Dividend Trust has approved, subject to the issuance of the requested relief and subsequent shareholder approval, the contribution of a segment of Dividend Trust's assets having a value of approximately \$100 million to Global Trust, in exchange for