

## SECURITIES AND EXCHANGE COMMISSION

[Extension: Rule 301 and Forms ATS and ATS-R, SEC File No. 270-451, OMB Control No. 3235-0509; Rule 302, SEC File No. 270-453, OMB Control No. 3235-0510; Rule 303, SEC File No. 270-450, OMB Control No. 3235-0505]

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

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 requests for extension of the previously approved collections of information discussed below.

Regulation ATS provides a regulatory structure that directly addresses issues related to alternative trading systems' role in the marketplace. Regulation ATS allows alternative trading systems to choose between two regulatory structures. Alternative trading systems have the choice between registering as broker-dealers and complying with Regulation ATS or registering as national securities exchanges. Regulation ATS provides the regulatory framework for those alternative trading systems that choose to be regulated as broker-dealers.

Rule 301 of Regulation ATS contains certain notice and reporting requirements, as well as additional obligations that only apply to alternative trading systems with significant volume. Rule 301 describes the conditions with which an alternative trading system must comply to be registered as a broker-dealer. Rule 301 requires all alternative trading systems that wish to comply with Regulation ATS to file an initial operation report on Form ATS. The initial operation report requires information regarding operation of the system including the method of operation, access criteria and the types of securities traded. Alternative trading systems are also required to supply updates on Form ATS to the Commission, describing material changes to the system, and quarterly transaction reports on Form ATS-R. Alternative trading systems are also required to file cessation of operations reports on Form ATS.

Alternative trading systems with significant volume are required to comply with requirements for fair

access and systems capacity, integrity and security. Under Rule 301, such alternative trading systems are required to establish standards for granting access to trading on its system. In addition, upon a decision to deny or limit an investor's access to the system, an alternative trading system is required to provide notice to the investor of the denial or limitation and their right to an appeal to the Commission. Regulation ATS requires alternative trading systems to preserve any records made in the process of complying with the systems' capacity, integrity and security requirements. In addition, such alternative trading systems are required to notify Commission staff of material systems outages and significant systems changes.

The Commission uses the information provided pursuant to Rule 301 to comprehensively monitor the growth and development of alternative trading systems to confirm that investors effecting trades through the systems are adequately protected, and that the systems do not impede the maintenance of fair and orderly securities markets or otherwise operate in a manner that is inconsistent with the federal securities laws. In particular, the information collected and reported to the Commission by alternative trading systems enables the Commission to evaluate the operation of alternative trading systems with regard to national market system goals, and monitor the competitive effects of these systems to ascertain whether the regulatory framework remains appropriate to the operation of such systems. Without the information provided on Forms ATS and ATS-R, the Commission would not have readily available information on a regular basis in a format that will allow it to determine whether such systems have adequate safeguards.

Respondents consist of alternative trading systems that choose to register as broker-dealers and comply with the requirements of Regulation ATS. The Commission estimates that there are currently approximately 69 respondents.

An estimated 69 respondents will file an average total of 493 responses per year, which corresponds to an estimated annual response burden of 1,988.5 hours. At an average cost per burden hour of approximately \$77.07, the resultant total related cost of compliance for these respondents is \$153,263.14 per year (1,988.5 burden hours multiplied by \$77.07/hour).

Rule 302 of Regulation ATS describes the recordkeeping requirements for alternative trading systems that are not national securities exchanges. Under

Rule 302, alternative trading systems are required to make a record of subscribers to the alternative trading system, daily summaries of trading in the alternative trading system and records of order information in the alternative trading system.

The information required to be collected under Rule 302 should increase the abilities of the Commission, state securities regulatory authorities, and the SROs to ensure that alternative trading systems are in compliance with Regulation ATS as well as other rules and regulations of the Commission and the SROs. If the information is not collected or collected less frequently, the Commission would be severely limited in its ability to comply with its statutory obligations, provide for the protection of investors and promote the maintenance of fair and orderly markets.

Respondents consist of alternative trading systems that choose to register as broker-dealers and comply with the requirements of Regulation ATS. The Commission estimates that there are currently approximately 69 respondents.

Sixty-nine respondents will spend approximately 2,484 hours per year to comply with the recordkeeping requirements of Rule 302. At an average cost per burden hour of \$86.54, the resultant total related cost of compliance for these respondents is \$214,965.36 per year (2,484 burden hours multiplied by \$86.54/hour).

Rule 303 of Regulation ATS describes the record preservation requirements for alternative trading systems that are not national securities exchanges.

For alternative trading systems that register as broker-dealers, comply with Regulation ATS and meet certain volume thresholds, such alternative trading systems would be required to preserve all records made pursuant to Rule 302, which includes information relating to subscribers, trading summaries and order information. Such alternative trading systems would also be required to preserve records of any notices communicated to subscribers, a copy of the systems' standards for granting access and any documents generated in the course of complying with the systems' capacity, integrity and security requirements under Regulation ATS. Rule 303 also describes how such records must be kept and how long they must be preserved.

The information contained in the records required to be preserved by Rule 303 will be used by examiners and other representatives of the Commission, state securities regulatory authorities, and the SROs to ensure that alternative trading systems are in compliance with

Regulation ATS as well as other rules and regulations of the Commission and the SROs. Without the data required by Rule 303, the Commission would be severely limited in its ability to comply with its statutory obligations, provide for the protection of investors and promote the maintenance of fair and orderly markets.

Respondents consist of alternative trading systems that choose to register as broker-dealers and comply with the requirements of Regulation ATS. The Commission estimates that there are currently approximately 69 respondents.

Sixty-nine respondents will spend approximately 276 hours per year (69 respondents at 4 burden hours/respondent) to comply with the record preservation requirements of Rule 303. At an average cost per burden hour of \$86.54, the resultant total related cost of compliance for these respondents is \$23,885.04 per year (276 burden hours multiplied by \$86.54/hour).

Compliance with Rules 301, 302, and 303 is mandatory. The information required by the Rules 301, 302, and 303 is available only to the examination of the Commission staff, state securities authorities and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522 ("FOIA"), and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

Regulation ATS requires alternative trading systems to preserve any records, for at least three years, made in the process of complying with the systems capacity, integrity and security requirements.

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 regarding the above information should be directed to the following persons: (a) 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, D.C. 20503; and (b) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments

must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: June 26, 2001.

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 25052; 812-11262]**

### **Apex Municipal Fund, Inc., et al.; Notice of Application**

June 26, 2001.

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

**ACTION:** Notice of an application under sections 6(c), 10(f), and 17(b) of the Investment Company Act of 1940 ("Act") for exemptions from sections 10(f) and 17(a) of the Act.

*Summary of Application:* The requested order would permit certain management investment companies to purchase municipal securities through group orders where an affiliated broker-dealer is a member of the underwriting syndicate.

*Applicants:* Apex Municipal Fund Inc., CMA Multi-State Municipal Series Trust, CMA Tax-Exempt Fund, Merrill Lynch California Municipal Series Trust, Merrill Lynch High Income Municipal Bond Fund, Inc., Merrill Lynch Institutional Tax-Exempt Fund, Merrill Lynch Multi-State Limited Maturity Municipal Series Trust, Merrill Lynch Multi-State Municipal Series Trust, Merrill Lynch Municipal Bond Fund, Inc., Merrill Lynch Municipal Strategy Fund, Inc., Merrill Lynch Municipal Series Trust, MuniAssets Fund, Inc., The Municipal Fund Accumulation Program, Inc., MuniEnhanced Fund, Inc., MuniHoldings California Insured Fund, Inc., MuniHoldings Florida Insured Fund, MuniHoldings Fund, Inc., MuniHoldings Fund II, Inc., MuniHoldings Insured Fund, Inc., MuniHoldings Insured Fund II, Inc., MuniHolding Michigan Insured Fund II, Inc., MuniHoldings New Jersey Insured Fund, Inc., MuniHoldings New York Insured Fund, Inc., MuniInsured Fund, Inc., MuniVest Fund, Inc., MuniVest Fund II, Inc., MuniYield Arizona Fund, Inc., MuniYield California Fund, Inc., MuniYield California Insured Fund, Inc., MuniYield California Insured Fund II, Inc., MuniYield Florida Fund, MuniYield Florida Insured Fund,

MuniYield Fund, Inc., MuniYield Insured Fund, Inc., MuniYield Michigan Fund, Inc., MuniYield Michigan Insured Fund, Inc., MuniYield New Jersey Fund, Inc., MuniYield New Jersey Insured Fund, Inc., MuniYield New York Insured Fund, Inc., MuniYield Pennsylvania Insured Fund, MuniYield Quality Fund, Inc., MuniYield Quality Fund II, Inc. (collectively, the "Funds"); Merrill Lynch Investment Managers, L.P. ("MLIM") and Fund Asset Management, L.P. ("FAM") (each an "Adviser" and, collectively, the "Advisers"); and Merrill Lynch Pierce, Fenner & Smith Incorporated ("MLPF&S").

*Filing Dates:* The application was filed on August 14, 1998, and amended on June 25, 2001.

*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 July 23, 2001 and should be accompanied by proof of service on 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.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Applicants, c/o Philip L. Kirstein, Esq., MLIM, Box 9011, Princeton, NJ 08543-9011.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Goldstein, Senior Counsel, at (202) 942-0646, or Nadya B. Roytblat, Assistant Director, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

### **Applicants' Representations**

1. Each fund is an open-end or closed-end management investment company registered under the Act. The investment objective of each Fund is to seek as high a level of current income exempt from federal tax and, to the