

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 (17 CFR 270.12b-1) permits a registered open-end investment company ("mutual fund") to distribute its own shares and pay the expenses of distribution out of the mutual fund's assets provided, among other things, that the mutual fund adopts a written plan ("Rule 12b-1 plan") and has in writing any agreements relating to the implementation of 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 and shareholders; (ii) the board review quarterly reports of amounts spent under the Rule 12b-1 plan; and (iii) the board consider continuation of the Rule 12b-1 plan at least annually. Rule 12b-1 also requires 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, 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.

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. 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.

Based on information filed with the Commission by funds, Commission staff estimates that there are approximately 6,871 mutual fund portfolios have at least one share class subject to a Rule 12b-1 plan.¹ However, many of these portfolios are part of an affiliated group of funds known as a "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 12b-1 fees, rather than on the total number of mutual fund portfolios that individually have a 12b-1 plan.² Based on information filed with the Commission, the staff estimates that there are approximately 371 fund families with common boards of directors that have at least one fund with a 12b-1 plan.

Based on conversations with fund representatives, Commission staff estimates that for each of the 371 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 annual consideration of whether to continue the plan.³ We therefore estimate that the total hourly burden per year for all funds to comply with current information collection requirements under Rule 12b-1, is 157,675 hours (371 fund families \times 425 hours per fund family = 157,675 hours) over the three year period for which we are requesting approval of the information collection burden).

If a currently operating fund seeks to (i) adopt a new Rule 12b-1 plan or (ii) materially increase the amount it spends for distribution under its Rule 12b-1 plan, Rule 12b-1 requires that the fund obtain shareholder approval. As a consequence, the fund will incur the cost of a proxy. Based on conversations with fund industry representatives, Commission staff estimates that approximately three funds per year prepare a proxy in connection with the adoption or material amendment of a Rule 12b-1 plan. The staff further estimates that the cost of each fund's proxy is \$30,000. Thus the total annual cost burden of Rule 12b-1 to the fund industry is \$90,000 (3 funds requiring a proxy \times \$30,000 per proxy).

² This allocation is based on 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 12b-1 plans rather than the number of fund families with 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 27,484 responses (6871 fund portfolios \times 4 responses per fund portfolio = 27,484 responses) each year.

³ We do not estimate any costs or time burden related to the recordkeeping requirement, as funds are already required to maintain these records pursuant to other rules, and would keep these records in any case as a matter of business practice.

The collections of information required by Rule 12b-1 are necessary to obtain the benefits of the rule. Notices to the Commission 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at Shagufta_Ahmed@omb.eop.gov; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 26, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-26175 Filed 10-29-09; 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 17f-6; SEC File No. 270-392; OMB Control No. 3235-0447.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), 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 17f-6 (17 CFR 270.17f-6) under the Investment Company Act of 1940 (15 U.S.C. 80a) permits registered investment companies ("funds") to maintain assets (*i.e.*, margin) with futures commission merchants ("FCMs") in connection with commodity transactions effected on both domestic and foreign exchanges. Before the rule was adopted, funds generally were required to maintain

¹ This estimate is based on information from the Commission's NSAR database.

such assets in special accounts with a custodian bank.¹

The rule requires a written contract that contains certain provisions designed to ensure important safeguards and other benefits relating to the custody of fund assets by FCMs. To protect fund assets, the contract must require that FCMs comply with the segregation or secured amount requirements of the Commodity Exchange Act ("CEA") and the rules under that statute. The contract also must contain a requirement that FCMs obtain an acknowledgment from any clearing organization that the fund's assets are held on behalf of the FCM's customers according to CEA provisions. Finally, FCMs are required to furnish to the Commission or its staff on request information concerning the fund's assets in order to facilitate Commission inspections.

The Commission estimates that approximately 2270 funds effect commodities transactions and could deposit margin with FCMs under Rule 17f-6 in connection with those transactions. Commission staff estimates that each fund uses and deposits margin with two different FCMs in connection with its commodity transactions.²

The Commission estimates that each of the 2270 funds spends an average of 1 hour annually complying with the contract requirements of the rule (*i.e.*, executing contracts that contain the requisite provisions with additional FCMs), for a total of 2270 burden hours. The estimate does not include the time required by an FCM to comply with the rule's contract requirements because, to the extent that complying with the contract provisions could be considered "collections of information," the burden hours for compliance are already included in other PRA submissions or are *de minimis*.³ The estimate of average burden hours is made solely for the

purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. If an FCM furnishes records pertaining to a fund's assets at the request of the Commission or its staff, the records will be kept confidential to the extent permitted by relevant statutory or regulatory provisions. The rule does not require these records be retained for any specific period of time. 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at Shagufta_Ahmed@omb.eop.gov; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 26, 2009.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-26177 Filed 10-29-09; 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:

Form 1-E, Regulation E; SEC File No. 270-221; OMB Control No. 3235-0232.

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.

Form 1-E (17 CFR 239.200) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") is the form that a small business investment company ("SBIC") or business development company ("BDC") uses to notify the Commission that it is claiming an exemption under Regulation E from registering its securities under the Securities Act. Rule 605 of Regulation E (17 CFR 230.605) under the Securities Act requires an SBIC or BDC claiming such an exemption to file an offering circular with the Commission that must also be provided to persons to whom an offer is made. Form 1-E requires an issuer to provide the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdictions in which the issuer intends to offer the securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1-E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the rule 605 offering circular and any underwriting contracts.

The Commission uses the information provided in the notification on Form 1-E and the offering circular to determine whether an offering qualifies for the exemption under Regulation E. It is estimated that approximately six issuers file eight notifications, together with attached offering circulars, on Form 1-E with the Commission annually. The Commission estimates that the total burden hours for preparing these notifications would be 800 hours in the aggregate. Estimates of the burden hours are made solely for the purposes of the PRA, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Compliance with the information collection requirements of the rules is necessary to obtain the benefit of relying on the rules. The information provided on Form 1-E and in the offering circular 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at

¹ Custody of Investment Company Assets With Futures Commission Merchants and Commodity Clearing Organizations, Investment Company Act Release No. 22389 (Dec. 11, 1996) [61 FR 66207 (Dec. 17, 1996)].

² This estimate is based on information conversations with representatives of the fund industry.

³ The rule requires a contract with the FCM to contain three provisions. Two of the provisions require the FCM to comply with existing requirements under the CEA and rules adopted under that Act. Thus, to the extent these provisions could be considered collections of information, the hours required for compliance would be included in the collection of information burden hours submitted by the Commodity Futures Trading Commission for its rules. The third contract provision requires that the FCM produce records or other information requested by the Commission or its staff. Commission staff has requested this type of information from an FCM so infrequently in the past that the annual burden hours are *de minimis*.