

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549-0004.

Extension

Rule 32a-4; OMB Control No. 3235-0530; SEC File No. 270-473.

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") is soliciting comments on the collection of information under the Investment Company Act of 1940 ("Act") summarized below. The Commission plans to submit this collection of information to the Office of Management and Budget for approval.

Rule 32a-4 [17 CFR 270.32a-4] is entitled "Independent Audit Committees." The rule exempts a registered management investment company or registered face-amount certificate company ("fund") fund from the requirements of section 32(a)(2) of the Investment Company Act that shareholders ratify or reject the selection of the fund's independent public accountant if the fund has an audit committee composed wholly of independent directors.

Instead of relying on rule 32a-4, a fund could seek ratification or rejection by shareholders of the selection of its independent public accountant at each annual meeting. Under the rule, a fund is exempt from having to seek shareholder approval of its independent public accountant, if (i) the fund's board of directors establishes an audit committee composed solely of independent directors with responsibility for overseeing the fund's accounting and auditing processes,¹ (ii) the fund's board of directors adopts an audit committee charter setting forth the committee's structure, duties, powers and methods of operation, or sets out similar provisions in the fund's charter or bylaws,² and (iii) the fund maintains a copy of such an audit committee charter permanently in an easily accessible place.³

As conditions of relying on rule 32a-4, a fund's board of directors must adopt an audit committee charter and must preserve that charter, and any modifications to the charter, permanently in an easily accessible

place. The information collection requirement in rule 32a-4 enables the Commission to monitor the duties and responsibilities of an independent audit committee formed by a fund relying on the rule. Commission staff estimates that there are approximately 3,700 management investment companies and face-amount certificate companies that could rely on the rule. We believe that approximately 9.7 percent (360) of those funds have taken advantage of the exemption since adoption of the rule, and approximately 2.7% (100) of the funds that have not already done so choose to rely on the rule each year. For each of those funds choosing for the first time to rely on the rule, we estimate that the adoption of the audit committee charter requires, on average, 1 hour of directors' time, 2.5 hours of professional time and 1 hour of support staff time, for a total one-time burden of burden of 4.5 hours, and an estimated total one-time cost of \$555.40, resulting in an annual aggregate time burden of 450 hours and an annual aggregate cost of \$55,540.⁴

In addition to the hour burden described above, rule 32a-4 imposes certain costs on those funds that choose to rely on the exemption. These costs are minimal and are justified by the relief provided by the exemption. We estimate that each of the approximately 360 funds currently relying on the rule is required to spend approximately .5 hours annually to comply with the requirement that it preserve permanently its audit committee charters, for an additional annual hour burden of 180 hours, and an additional annual cost for all funds of \$12,439.20.⁵

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.⁶

⁴ To calculate this cost, the Commission staff used an average hourly wage rate of \$300 per hour for directors, an average hourly wage rate of \$96.16 per hour for professionals, and an average hourly wage rate of \$15 per hour for support staff ((100 × 1 × \$300/hour) + (100 × 2.5 × \$96.16/hour) + (100 × 1 × \$15/hour) = \$94,000). See Securities Industry Association, Report on Management & Professional Earnings in the Securities Industry 2001 (Oct. 2001).

⁵ In calculating this annual cost, the Commission staff estimated that one-third of the annual hour burden (60 hours) would be incurred by support staff with an average hourly wage rate of \$15 per hour, and two-thirds of the annual burden (120 hours) would be incurred by professionals with an average hourly wage rate of \$96.16 per hour ((60 × \$15/hour) + (120 × \$96.16/hour) = \$12,439.20).

⁶ These estimates are based on telephone interviews between Commission staff and fund representatives.

The collections of information required by rule 32a-4 are necessary to obtain the benefits of the rule. The Commission is seeking OMB approval, because 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 are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: August 20, 2002.

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 46409]

Securities Exchange Act of 1934; In the Matter of Petition for Review by Knight Trading Group, Inc. of Division of Market Regulation Approval by Delegated Authority of File No. SR-Amex-2001-106; Order Denying Petition for Review

August 23, 2002.

Pursuant to Rule 431(b)(2) of the Rules of Practice,¹ it is *ordered* that the petition² of Knight Trading Group, Inc. ("Knight") for review of the Division of Market Regulation's ("Division") approval by delegated authority of SR-Amex-2001-106³ is hereby denied and

¹ 17 CFR 201.431(b)(2).

² Letter to Jonathan G. Katz, Secretary, Commission, from John J.D. McFerrin-Clancy, Schlam Stone & Dolan, dated August 15, 2002 ("Knight Petition").

³ Securities Exchange Act Release No. 46205 (August 2, 2002), 67 FR 51609 (August 8, 2002).

¹ Rule 32a-4(a).

² Rule 32a-4(b).

³ Rule 32a-4(c).