

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 249, 270 and 274

[Release Nos. 34-46441; IC-25723; File No. S7-33-02]

RIN 3235-A163

Certification of Management Investment Company Shareholder Reports and Designation of Certified Shareholder Reports as Exchange Act Periodic Reporting Forms

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing rule amendments that would require registered management investment companies to file certified shareholder reports with the Commission, and would designate these certified reports as reports that are required under Sections 13(a) and 15(d) of the Securities Exchange Act of 1934. This proposal would require each registered management investment company's principal executive and financial officers to certify the information contained in these reports in the manner required by Section 302 of the Sarbanes-Oxley Act of 2002. In addition, we are proposing an amendment to Form N-SAR, the semi-annual reporting form for registered investment companies, that would uniformly apply to all registered investment companies the requirement to include in Form N-SAR the certification required by Section 302 of the Sarbanes-Oxley Act of 2002. Finally, we are proposing a new rule to require every registered investment company to maintain disclosure controls and procedures designed to ensure that the information required in its disclosure documents is recorded, processed, summarized, and reported on a timely basis.

DATES: Comments must be received on or before October 16, 2002.

ADDRESSES: To help us process and review your comments more efficiently, comments should be sent by one method only.

Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically at the following electronic mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. S7-33-02; this file number should be included in the subject line if electronic mail is used.

Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet Web site (*http://www.sec.gov*).¹

FOR FURTHER INFORMATION CONTACT: John M. Faust, Law Clerk, Tara L. Royal, Attorney, or Paul G. Cellupica, Assistant Director, Office of Disclosure Regulation, Division of Investment Management, (202) 942-0721, at the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is proposing for comment new rules 30a-3 and 30d-1 under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] ("Investment Company Act"), and amendments to rules 8b-15 [17 CFR 270.8b-15], 30a-1 [17 CFR 270.30a-1], 30a-2 [17 CFR 270.30a-2], 30b1-1 [17 CFR 270.30b1-1], and 30b2-1 [17 CFR 270.30b2-1] under the Investment Company Act. The Commission also is proposing for comment amendments to Form N-SAR [17 CFR 249.330; 17 CFR 274.101] under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*] ("Exchange Act") and the Investment Company Act, and new Form N-CSR [17 CFR 249.331; 17 CFR 274.128] under the Exchange Act and the Investment Company Act.

I. Introduction and Background

On July 30, 2002, the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley Act") was enacted.² Section 302 of the Sarbanes-Oxley Act, entitled "Corporate Responsibility for Financial Reports," requires the Commission to adopt final rules that must be effective by August 29, 2002, 30 days after the date of enactment, under which the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, of an issuer each must certify the information contained in the issuer's quarterly and annual reports filed or submitted under Section 13(a) or 15(d) of the Exchange Act.³ Form N-SAR is

¹ We do not edit personal identifying information, such as names or electronic mail addresses, from electronic submissions. You should submit only information that you wish to make available publicly.

² Pub. L. 107-204, 116 Stat. 745 (2002).

³ Section 13(a) of the Exchange Act requires every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission such annual reports and such quarterly reports as the Commission may prescribe. 15 U.S.C. 78m(a).

currently the form designated for registered investment companies to comply with their reporting requirements under Sections 13(a) and 15(d) of the Exchange Act, as well as periodic reporting requirements under Sections 30(a) and 30(b)(1) of the Investment Company Act.⁴

In a companion release to this proposing release, the Commission is implementing the certification requirement of Section 302 of the Sarbanes-Oxley Act with respect to registered investment companies by adopting new rule 30a-2 under the Investment Company Act and the Sarbanes-Oxley Act.⁵ Rule 30a-2 requires a registered investment company that files periodic reports under Section 13(a) or 15(d) of the Exchange Act, *i.e.*, Form N-SAR, to include the certification specified by Section 302 in those periodic reports.⁶

II. Discussion of Proposed Amendments

Certified Shareholder Reports

Although Form N-SAR is currently the form designated for registered investment companies to comply with their reporting requirements under Sections 13(a) and 15(d) of the Exchange Act, we believe that certification of Form N-SAR alone is not sufficient to fully implement the intent of the certification requirement of Section 302 of the Sarbanes-Oxley Act for registered management investment companies. This certification requirement was intended to improve the quality of the

Section 15(d) of the Exchange Act requires each issuer that has filed a registration statement that has become effective pursuant to the Securities Act of 1933 ("Securities Act") to file such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the Exchange Act in respect of a security registered pursuant to Section 12. 15 U.S.C. 78o(d). The duty of an issuer to file under Section 15(d) is automatically suspended for any fiscal year, other than a fiscal year in which its registration statement becomes effective or is required to be updated pursuant to Section 10(a)(3) of the Securities Act [15 U.S.C. 77j(a)(3)], if an issuer's securities are held of record by less than 300 persons. 15 U.S.C. 78o(d); 17 CFR 240.12h-3(c).

⁴ General Instruction A to Form N-SAR; Rule 30a-1 under the Investment Company Act [17 CFR 270.30a-1]. See Investment Company Act Release No. 14299 (Jan. 4, 1985) [50 FR 1442] (release adopting Form N-SAR). Face-amount certificate companies, however, do not file reports on Form N-SAR, but rather file periodic reports on Forms 10-K and 10-Q. See Investment Company Act Release No. 14080 (Aug. 6, 1984) [49 FR 32370, 32372] (face-amount certificate companies are required to file reports on other forms prescribed under the Exchange Act rather than Form N-SAR).

⁵ See Exchange Act Release No. 34-46427 (Aug. 28, 2002).

⁶ In the companion release, we have also adopted amendments to Form N-SAR, to require the specified certification to be filed as an exhibit to Form N-SAR. Item 133 and instructions to items 77Q3, 102P3, and 133 of Form N-SAR.

disclosure that a company provides about its financial condition in its periodic reports to investors.⁷ For registered management investment companies, the required reports to shareholders, rather than Form N-SAR, are the primary vehicle for providing financial statements to investors.⁸ We believe that the information in these reports to shareholders should be certified.

Therefore, we are proposing to amend rule 30b2-1 under the Investment Company Act,⁹ which currently requires registered investment companies to file copies of reports transmitted to shareholders with the Commission within 10 days of their transmission to shareholders. Our proposed amendment would require a registered management investment company to file a report with the Commission on new Form N-CSR ("certified shareholder report") containing (i) a copy of any required shareholder report, (ii) additional information regarding disclosure controls and procedures, and (iii) the certification required by the Sarbanes-Oxley Act.¹⁰ New Form N-CSR would require certified shareholder reports to contain the exact form of the certification prescribed by Section 302. The form of this certification would parallel the form of the certification we

⁷ See, e.g., S. Rep. No. 107-205, at 2 (2002) ("The bill also requires steps to enhance the direct responsibility of senior corporate management for financial reporting and for the quality of financial disclosures made by public companies."); 148 Cong. Rec. S7355 (July 25, 2002) (statement of Sen. Enzi) ("With respect to section 302, the conference recognizes that results presented in financial statements often necessarily require accompanying disclosures in order to apprise investors of the company's true financial condition and results of operations. The supplemental information contained in these additional disclosures increases transparency for investors. Accordingly, the relevant officers must certify that the financial statements together with the disclosures contained in the periodic report, taken as a whole, are appropriate and fairly represent, in all material respects, the operations and financial condition of the issuer."); 148 Cong. Rec. S6760 (July 15, 2002) (statement of Sen. Akaka) ("The legislation also requires additional corporate governance procedures to make Chief Executive Officers and Chief Financial Officers more directly responsible for the quality of financial reporting made to investors.");

⁸ Rule 30e-1 under the Investment Company Act [17 CFR 270.30e-1].

⁹ 17 CFR 270.30b2-1.

¹⁰ Proposed rule 30b2-1(a) under the Investment Company Act; proposed Form N-CSR. In addition, we are proposing to amend new rule 30a-2 to require both Forms N-CSR and N-SAR to include the certification required by Section 302 of the Sarbanes-Oxley Act. No certified shareholder report on Form N-CSR would be required with respect to a report to shareholders that is not required under rule 30e-1 under the Investment Company Act [17 CFR 270.30e-1], e.g., voluntary quarterly reports. These reports to shareholders would continue to be filed with the Commission as they are presently. Proposed rule 30b2-1(b).

have prescribed for other Exchange Act forms, such as Form N-SAR and Forms 10-K and 10-Q. In addition to the signature required on the certification, the report would be required to be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers and its principal financial officer or officers.¹¹

We are also proposing a new rule 30d-1 under the Investment Company Act to designate both reports on Form N-SAR filed by management investment companies and unit investment trusts, and the certified shareholder reports on Form N-CSR that management investment companies would be required to file under rule 30b2-1(a), as periodic reports filed with the Commission under Section 13(a) or 15(d) of the Exchange Act.¹² The proposed amendments would, if adopted, require a certification of each principal executive officer and financial officer of a management investment company to be included in both its certified shareholder reports, and in its reports on Form N-SAR. The proposed amendments would also apply the certification requirement to amendments of certified shareholder reports on Form N-CSR.¹³

We request comment on our proposal to require certified shareholder reports to be filed on Form N-CSR and to designate these reports as reports that

¹¹ See proposed General Instruction E to Form N-CSR.

¹² We are also proposing a technical conforming amendment that would delete the language in current rule 30a-1 [17 CFR 270.30a-1] stating that a registered management investment company required to file an annual report pursuant to Section 13(a) or 15(d) of the Exchange Act and Section 30(a) of the Investment Company Act shall be deemed to have satisfied its requirement to file an annual report by the filing of semi-annual reports on Form N-SAR. The proposed amendments would rename rule 30a-1 in order to specify that it relates to annual reports by registered unit investment trusts, and would rename rule 30b1-1 [17 CFR 270.30b1-1] in order to specify that it relates to semi-annual reports of registered management investment companies.

Form N-SAR would continue to be the only form required to satisfy the reporting requirements of Sections 13(a) and 15(d) of the Exchange Act with respect to registered unit investment trusts and registered small business investment companies ("SBICs"). Unit investment trusts, which are unmanaged, fixed portfolios of securities that have no corporate management structure, generally are not required to transmit reports to shareholders containing their financial statements. Similarly, registered SBICs, which are management investment companies, are not required under rule 30e-1(a) [17 CFR 270.30e-1(a)] to transmit reports to shareholders containing their financial statements, because Form N-5 [17 CFR 239.24; 17 CFR 274.5], the registration form for SBICs, does not prescribe requirements for reports to shareholders by SBICs.

¹³ Proposed rule 8b-15 under the Investment Company Act.

are required under Sections 13(a) and 15(d) of the Exchange Act.

- Should we require both the filing of certified shareholder reports on Form N-CSR and the certification of Form N-SAR? Should Form N-SAR be designated as exclusively an Investment Company Act filing and the certification requirement removed from Form N-SAR? If we remove the certification requirement from Form N-SAR, unit investment trusts and small business investment companies will have no certification requirement. Is this result appropriate or should these types of investment companies continue to certify Form N-SAR? Should Form N-SAR continue to be an Exchange Act reporting form for unit investment trusts and small business investment companies, even if we determine that it should be an Investment Company Act-only form for other management investment companies?

- Instead of our proposal, should we require the certification required by Section 302 of the Sarbanes-Oxley Act to be included in Form N-SAR, but require additional information, such as the report to shareholders, or a portion of this report such as the financial statements, to be filed as an exhibit to the report on Form N-SAR?

Scope of Certification Requirement

In addition to financial statements, annual reports to shareholders of open-end management investment companies, or mutual funds, typically contain Management's Discussion of Fund Performance ("MDFP"), although they are not required to do so.¹⁴ MDFP includes narrative disclosure of the factors that materially affected a fund's performance during the reporting period, a line graph comparing the fund's performance to that of an appropriate broad-based market index, and a table of average annual total returns for the fund.¹⁵ In addition, the annual report to shareholders of a management investment company must contain other information, including certain basic information about the investment company's directors.¹⁶ Our

¹⁴ Item 5 of Form N-1A. Management's Discussion of Fund Performance must be included in a fund's prospectus unless the fund is a money market fund or the information in the MDFP is included in the fund's annual report to shareholders under rule 30e-1 [17 CFR 270.30e-1]. A fund that includes MDFP in its annual report must disclose in its prospectus that its annual report contains additional performance information that will be made available upon request and without charge. Item 1(b)(1) of Form N-1A.

¹⁵ Item 5 of Form N-1A.

¹⁶ Item 22(b)(5) of Form N-1A; Instruction 4.e. to Item 23 of Form N-2; Instruction 4(v) to Item 27(a) of Form N-3.

proposed amendments would require this information and any other information contained in shareholder reports, whether required or included voluntarily, to be certified. This requirement is intended to fully implement the intent of Section 302, by enhancing the quality of all the information provided to investors in an investment company's reports to shareholders.

We request comment on the scope of the certification requirement.

- Should the certification requirement apply to part or all of the information contained within a shareholder report, including any information included on a voluntary basis and not required by statute or rule? For example, should Form N-CSR be required to contain only a portion of the shareholder report, such as the financial statements, with the remainder of the shareholder report filed with the Commission exclusively under the Investment Company Act?

Uniform Application of Certification Requirements

Our proposed amendments would also amend the instructions to Form N-SAR to uniformly apply to all registered investment companies the requirement to include the certification required by Section 302 of the Sarbanes-Oxley Act, regardless of whether they are subject to Section 13(a) or 15(d) of the Exchange Act.¹⁷ Likewise, the requirement to file certified shareholder reports would apply regardless of whether an investment company is subject to Section 13(a) or 15(d) of the Exchange Act.¹⁸ By contrast, registered investment companies that do not file reports under Section 13(a) or 15(d) of the Exchange Act are not required, by the instructions to Form N-SAR that we have adopted in our companion release, to comply with the certification requirement of Section 302 of the Sarbanes-Oxley Act.¹⁹ This results from the fact that the rules we have adopted implement Section 302, which only directs the

¹⁷ Proposed Instruction to sub-item 77Q3 of Form N-SAR. See *supra* note 3 (describing scope of coverage of Sections 13(a) and 15(d) of the Exchange Act).

¹⁸ Proposed rule 30b2-1(a).

¹⁹ This exception applies principally to investment companies that do not file reports under Section 13(a) of the Exchange Act because they are not registered on a national securities exchange pursuant to Section 12 of the Exchange Act, and that do not file reports under Section 15(d) of the Exchange Act because they issue securities that are held of record by less than 300 persons, do not have a registration statement that has become effective in the current fiscal year, and are not required to update their registration statement in the current year pursuant to Section 10(a)(3) of the Securities Act. See *supra* note 3.

Commission to adopt rules that will apply to companies filing periodic reports under Section 13(a) or 15(d) of the Exchange Act. We believe, however, that it is important for the certification requirement, like our other reporting rules, to apply consistently to all registered investment companies, regardless of whether they fall within the periodic reporting requirements of the Exchange Act.²⁰

We request comment on our proposal to amend the instructions to Form N-SAR to require all registered investment companies to include the certification required by Section 302 of the Sarbanes-Oxley Act, regardless of whether they are subject to Section 13(a) or 15(d) of the Exchange Act. We also request comment on our proposal to require management investment companies to file certified shareholder reports on Form N-CSR regardless of whether they are subject to Section 13(a) or 15(d) of the Exchange Act.

- Should the certification requirement apply uniformly to all registered investment companies, or should it apply only to registered investment companies subject to Section 13(a) or 15(d) of the Exchange Act?

Disclosure Controls and Procedures

We are also proposing new rule 30a-3, which would require all registered investment companies to maintain, and regularly evaluate the effectiveness of, controls and procedures designed to ensure that the information required in filings under the Securities Act of 1933 ("Securities Act"), Exchange Act, and Investment Company Act, including prospectuses and prospectus amendments, reports to shareholders, and Form N-SAR, is recorded, processed, summarized, and reported on a timely basis. We are also proposing a conforming amendment to rule 30a-2(c), to clarify that the definition of disclosure controls and procedures applies to all registration statements, reports, and other filings under these Acts.

Investment companies filing reports under Section 13(a) or 15(d) of the Exchange Act will be required to maintain disclosure controls and procedures under new Exchange Act rules 13a-15 and 15d-15 with respect to

²⁰ Cf. General Instruction A to Form N-SAR (Form N-SAR is to be used for semi-annual and annual reports by all registered investment companies that have filed a registration statement that has become effective pursuant to the Securities Act, with the exception of face amount certificate companies).

Exchange Act reports.²¹ Proposed rule 30a-3 would apply this requirement uniformly to all registered investment companies and would extend it to filings under the Securities Act and the Investment Company Act. We believe that it is important that investment companies maintain effective disclosure controls and procedures with respect to the information required in filings under the Securities Act and the Investment Company Act as well as with respect to Exchange Act filings. Further, we believe that all registered investment companies should maintain effective disclosure controls and procedures, regardless of whether they fall within the periodic reporting requirements of the Exchange Act. Proposed rule 30a-3 would require an investment company, under the supervision and with the participation of the principal executive and financial officers, to conduct an evaluation of its disclosure controls and procedures within the 90-day period prior to the filing date of each report requiring certification under Investment Company Act rule 30a-2. We expect that this evaluation would be carried out in a manner that would form the basis for the certification required by Section 302 of the Sarbanes-Oxley Act regarding disclosure controls and procedures required by Investment Company Act rule 30a-2(b)(4).

We request comment on our proposal to require all registered investment companies to maintain disclosure controls and procedures with respect to all filings under the Securities Act, Exchange Act, and Investment Company Act.

- Should the disclosure controls and procedures requirements extend to filings made under all three Acts, and to all registered investment companies?

Compliance Date

If we adopt the proposed amendments, we intend to require compliance with the proposed amendments, including the requirement to file certified shareholder reports on Form N-CSR and the requirements with respect to disclosure controls and procedures, 30 days after their publication in the **Federal Register**.

We request comment on the anticipated compliance date.

- Is 30 days an appropriate transition period for compliance, or should this be shorter or longer? Should any of the proposed amendments have different compliance dates?

²¹ See Exchange Act Release No. 34-46427 (Aug. 28, 2002).

III. General Request for Comment

In addition to requesting comment on our proposal to require the filing of certified shareholder reports and to designate these reports as reports filed with the Commission pursuant to Section 13(a) or 15(d) of the Exchange Act and our other proposals, we request comment generally on whether any further changes to our rules and forms are necessary or appropriate to implement the objectives of our proposed amendments, and on other matters that might have an effect on the proposals contained in this release.

IV. Paperwork Reduction Act

The new rules and rule and form amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").²² We are submitting the proposal to the Office of Management and Budget ("OMB") for review in accordance with the PRA.²³ The titles for the collection of information are "Form N-CSR under the Investment Company Act of 1940 and Securities Exchange Act of 1934, Certified Shareholder Report," and "Form N-SAR under the Investment Company Act of 1940 and Securities Exchange Act of 1934, Semi-Annual Report for Registered Investment Companies."

Form N-SAR (OMB Control No. 3235-0330) under the Exchange Act and the Investment Company Act [17 CFR 249.330; 17 CFR 274.101] is used by registered investment companies to file periodic reports with the Commission. The Commission is proposing a new collection of information on proposed Form N-CSR under the Exchange Act and the Investment Company Act, to be used by registered management investment companies filing certified shareholder reports.

A. Summary of Proposed Rules

Proposed Form N-CSR, if adopted, would contain: (i) A copy of any report that is required to be transmitted to shareholders, (ii) additional information regarding disclosure controls and procedures, and (iii) the certification required by Section 302 of the Sarbanes-Oxley Act. The proposed amendment to rule 30b2-1, if adopted, would require a registered management investment company to file certified shareholder reports with the Commission on proposed Form N-CSR. Proposed rule 30d-1, if adopted, would designate both reports on Form N-SAR and certified shareholder reports on Form N-CSR as

periodic reports under Section 13(a) or 15(d) of the Exchange Act.²⁴ The proposed amendments to rule 30a-2, if adopted, would require each certified shareholder report on Form N-CSR filed with the Commission under rule 30b2-1(a) to include the certification required by Section 302, by each principal executive and financial officer of a management investment company.²⁵ The proposed amendments to rule 8b-15, if adopted, would also apply the certification requirement to amendments of certified shareholder reports on Form N-CSR.²⁶ Proposed rule 30a-3, if adopted, would require all registered management investment companies to maintain, and regularly evaluate the effectiveness of, disclosure controls and procedures designed to ensure that the information required in filings under the Securities Act, Exchange Act, and Investment Company Act is recorded, processed, summarized, and reported on a timely basis. All of these proposed rules and rule amendments, if adopted, would become part of the collection of information of new Form N-CSR and Form N-SAR, because these forms would contain the requirement that each registered investment company filing reports on these forms would have to certify the contents of these reports.

Compliance with the proposed rules and rule and form amendments is mandatory and the information provided will not be kept confidential. Under our rules for retention of manual signatures, registered investment companies would have to maintain the certifications for five years.²⁷ The Commission 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.

²⁴ We are also proposing technical conforming amendments that would rename rule 30a-1 in order to specify that it relates to annual reports by unit investment trusts, and would rename rule 3061-1 [17 CFR 270.30b1-1] in order to specify that it relates to semi-annual reports of registered management investment companies. These technical amendments do not constitute a collection of information because we are not altering the legal requirements of these rules.

²⁵ Proposed rule 30b2-1(a) under the Investment Company Act would not require the filing of a certified shareholder report with respect to a report to shareholders not required under rule 30e-1 under the Investment Company Act [17 CFR 270.30e-1], e.g., voluntary quarterly reports.

²⁶ This would not be a collection of information because the requirement to file certified shareholder reports on Form N-CSR is a requirement under rule 30b2-1 and not under rule 8b-15.

²⁷ See Rule 302(b) of Regulation S-T [17 CFR 232.302(b)].

B. Reporting and Cost Burden Estimates

The compliance burden estimates for the proposed collection of information are based on several assumptions. The compliance burden for Form N-SAR and Form N-CSR would be the reporting burden associated with requiring the principal executive and financial officer to review and analyze each periodic report to be filed by an investment company in order to make the required certification. We estimate that the new certification requirement would result in an increase of five burden hours per respondent per filing in connection with the certification of annual and semi-annual reports on Form N-SAR and Form N-CSR. We request comment on this estimate.

We estimate that the proposed rules and rule and form amendments would affect 3,750 respondents.²⁸ Based on a burden hour estimate of five hours for each respondent per filing we estimate that, in the aggregate, all respondents will incur 37,500 burden hours²⁹ to comply with the proposed rules and rule and form amendments.

The total burden hours of complying with Form N-CSR is estimated to be 37,000 burden hours.³⁰ Each registered management investment company would be required to file annual and semi-annual reports on Form N-CSR. The contents of this report will consist of (i) a copy of any required shareholder report, (ii) additional information regarding disclosure controls and procedures, and (iii) the certification required by Section 302 of the Sarbanes-Oxley Act. We estimate that respondents will incur a burden of five hours in connection with the review, certification, and filing of each report on Form N-CSR.

The total burden hours for Form N-SAR, revised to include the burden hours expected from the proposed rules and rule and form amendments, is estimated to be 154,950 burden hours, an increase of 500 hours from the current annual burden of 154,450 hours.³¹

²⁸ 3,700 registered management investment companies filing certified shareholder reports on Form N-CSR + 50 additional registered management investment companies certifying Form N-SAR = 3,750 respondents.

²⁹ 3,750 respondents × 2 certifications per year × 5 hours per certification = 37,500 total hours.

³⁰ 3,700 registered management investment companies filing certified shareholder reports on Form N-CSR × 2 certifications per year × 5 hours per certification = 37,000 burden hours.

³¹ This increase reflects an increase of 10 hours (5 hours × 2 N-SAR filings per year) for the 50 registered management investment companies that are not required to file the certification on Form N-SAR currently.

²² 44 U.S.C. 3501 *et seq.*

²³ 44 U.S.C. 3507(d) and 5 CFR 1320.11.

Proposed amendments to rule 30b2-1, if adopted, would require a registered management investment company to file certified shareholder reports on Form N-CSR with the Commission. This would not constitute an additional collection of information because the burden required by these amendments is part of the collection of information on new Form N-CSR.

Proposed rule 30d-1, if adopted, would require both reports on Form N-SAR with regard to management investment companies and unit investment trusts, and certified shareholder reports with regard to management investment companies to be deemed to be filed with the Commission under Section 13(a) or 15(d) of the Exchange Act. Proposed rule 30d-1 would not impose an additional collection of information on respondents because the burden required by this proposed rule is part of the information on Form N-SAR and Form N-CSR.

The proposed amendments to rule 30a-2, if adopted, would require each report filed with the Commission under rule 30b2-1(a) to include the certification required by Section 302 of the Sarbanes-Oxley Act. Furthermore, the proposed amendments to rule 30a-2 and amendments to Form N-SAR would uniformly apply the requirement to include the certification required by Section 302 of the Sarbanes-Oxley Act on Form N-SAR to all registered investment companies, regardless of whether they are subject to Section 13(a) or 15(d) of the Exchange Act. We estimate that there are approximately 50 registered investment companies that do not currently file reports under Section 13(a) or 15(d) of the Exchange Act. The amendments to rule 30a-2 would not be an additional collection of information because the burden required by these amendments is part of the current information collection of Form N-SAR.

Proposed rule 30a-3 would apply uniformly to all investment companies the requirement to maintain sufficient procedures to record, process, summarize, and report the information required in its filings under the Securities Act, Exchange Act, and Investment Company Act. This would not be an additional collection of information because this requirement to maintain and evaluate disclosure controls and procedures would become part of the collection of information required by Form N-SAR and Form N-CSR, because each principal executive and financial officer of a registered investment company would have to state in a required certification in Form N-SAR and Form N-CSR that he or she

is responsible for maintaining disclosure controls and procedures, and has evaluated these controls and procedures.

C. Request for Comment

We request comment in order to: (a) Evaluate whether the proposed information collections and amendments to our existing information collections are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) evaluate the accuracy of our estimate of the burden of the proposed rules and rule and form amendments for registered investment companies; (c) determine whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (d) evaluate whether there are ways to minimize the burden of the proposals on those who respond, including through the use of automated collection techniques or other forms of information technology.³²

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the proposed collection of information requirements should direct their comments to the OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549-0609, with reference to File No. S7-33-02. Requests for materials submitted to the OMB by us with regard to this collection of information should be in writing, refer to File No. S7-33-02 and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street NW, Washington, DC 20549. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, your comments are best assured of having their full effect if the OMB receives them within 30 days of publication.

V. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. Our proposed rules and rule and form amendments would require a registered

management investment company to file certified shareholder reports with the Commission on Form N-CSR containing (i) a copy of any required report to shareholders, (ii) additional information regarding disclosure controls and procedures, and (iii) the certification required by Section 302 of the Sarbanes-Oxley Act. These proposals also would designate both reports on Form N-SAR, filed by management investment companies and unit investment trusts, and certified shareholder reports on Form N-CSR, filed by management investment companies, as periodic reports filed with the Commission under the Exchange Act. Therefore, these proposals, if adopted, would require the certification of each management investment company's principal executive and financial officer to be included in both its reports on Form N-SAR and its certified shareholder reports on Form N-CSR. We also propose amending the instructions to Form N-SAR, the semi-annual reporting form for registered investment companies, to uniformly apply to all registered investment companies the certification requirement of Section 302 of the Sarbanes-Oxley Act, regardless of whether they are subject to Section 13(a) or 15(d) of the Exchange Act. Finally, the proposed rules would require all registered investment companies to maintain, and regularly evaluate the effectiveness of, disclosure controls and procedures designed to ensure that the information required in its filings with the Commission is recorded, processed, summarized, and reported on a timely basis.

A. Benefits

In proposing these rules and rule and form amendments, we intend to more fully implement the intent of Section 302 of the Sarbanes-Oxley Act, by improving the quality of the disclosure that an investment company provides about its financial condition in its periodic reports to investors. Section 302 of the Sarbanes-Oxley Act requires the principal executive and financial officers of an issuer to certify the information contained in the issuer's quarterly or annual reports filed under Section 13(a) or 15(d) of the Exchange Act. Requiring a registered investment company's principal executive and financial officers to file certified shareholder reports on Form N-CSR would require these officers to certify, in part, that the financial statements contained in the periodic report fairly present in all material respects the financial condition, results of operations, changes in net assets, and

³² Comments are requested pursuant to 44 U.S.C. 3506(c)(2)(B).

cash flows (if the financial statements are required to include a statement of cash flows) of the registered investment company.

In addition, the proposed rules should help to ensure that registered investment companies maintain sufficient disclosure controls and procedures to provide reasonable assurance that they can record, process, summarize, and report on a timely basis information that is required in reports to shareholders and other required disclosure documents.³³ To the extent that registered investment companies do not maintain adequate procedures, the proposed rules should lead to the development, or enhancement and modernization, of these procedures. Further, the certification requirement in our proposed rules would require an investment company under the supervision of its management to conduct an evaluation of these disclosure controls and procedures within the 90-day period prior to the filing date of each report requiring certification. This would help to ensure that registered investment companies devote adequate resources and attention to the maintenance of their reporting systems. Additionally, the required evaluation would help to ensure the continuous, orderly, and timely flow of information within the registered investment company and, ultimately, to investors.

By emphasizing the importance of the role of senior officers in the reporting process, the proposed rules and rule and form amendments would help to enhance investor confidence in the quality of the disclosure in registered investment companies' reports to shareholders. This, in turn, would help to encourage investor confidence in these investment companies. These benefits are difficult to quantify, but may be significant. We request comment on the nature and magnitude of these benefits.

B. Costs

While the proposed rules and rule and form amendments may lead to some additional costs for registered investment companies, we believe that these costs should be minimal. These proposals will require each registered management investment company's principal executive and financial officer to certify the information contained in both its certified shareholder reports on Form N-CSR and in its reports on Form N-SAR, if not already required to do so. In order to provide the required certification, each principal executive

and financial officer will need to review these reports. We believe that these officers already review these reports, so there should be no additional burden imposed on these companies. To the extent that these officers would need to spend additional time critically reviewing the overall context of the disclosure provided in these reports, the company would incur costs. For purposes of the Paperwork Reduction Act,³⁴ we estimate that it would take approximately 37,500 hours to comply with the proposed rules and rule and form amendments to the extent that management investment companies are not already required to do so.³⁵

The required certification of certified shareholder reports on Form N-CSR and Form N-SAR (to the extent not already required) by the principal executive and financial officers of investment companies would create a new legal obligation for these individuals. We believe that the potential, incremental cost of litigation arising from signing a certification is justified by the benefit to investors of knowing that the principal executive and financial officers have reviewed and analyzed the reports.

We believe that most registered investment companies already maintain some form of disclosure controls and procedures for identifying and processing the information needed to satisfy their disclosure obligations to their shareholders. The proposed amendments do not dictate that registered investment companies follow any particular procedure. Alternatively, we could have required specific controls and procedures for all investment companies. By proposing to allow investment companies to determine what procedures are necessary to meet the obligations of the proposed rules, the Commission will be mitigating the costs associated with compliance. Some registered investment companies may need to institute appropriate procedures while others may need to enhance existing informal or ad hoc procedures. These incremental costs are difficult to quantify. We do not have data to quantify the cost of implementing, or upgrading and strengthening existing, internal reporting procedures, and we seek comments and supporting data on these costs.

The requirement in the certification that disclosure controls and procedures be evaluated within 90 days of the filing

of a report may result in costs for registered management investment companies. Many registered investment companies may already regularly monitor and evaluate their procedures. However, the size and scope of these internal systems are likely to vary among registered investment companies, and it is difficult to provide an accurate cost estimate. We request comment on the costs of these evaluation requirements.

We note that in a companion release to this proposing release, the Commission is implementing the certification requirement of Section 302 of the Sarbanes-Oxley Act with respect to registered investment companies that file periodic reports under Section 13(a) or 15(d) of the Exchange Act, *i.e.*, Form N-SAR. Therefore, the additional cost involved in establishing and evaluating disclosure controls and procedures in order to certify the contents of certified shareholder reports on Form N-CSR in addition to the contents of reports on Form N-SAR may be limited.

C. Request for Comments

We request comment on all aspects of this cost-benefit analysis, including identification of any additional costs or benefits of, or suggested alternatives to, the proposed rules and rule and form amendments. In particular, we request comments on the costs and benefits to registered management investment companies and their shareholders of filing certified shareholder reports on Form N-CSR. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VI. Consideration of Burden on Competition; Promotion of Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. Section 23(a)(2) also prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.³⁶ In addition, Section 2(c) of the Investment Company Act,³⁷ section 2(b) of the Securities Act³⁸ and Section 3(f) of the Exchange Act³⁹ require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public

³⁴ See Section IV above.

³⁵ We calculated this result as follows: (3,700 registered management investment companies filing certified shareholder reports on Form N-CSR + 50 additional registered investment companies certifying Form N-SAR) x 2 filings per year = 7,500 filings of reports x five hours = 37,500 hours.

³⁶ 15 U.S.C. 78w(a)(2).

³⁷ 15 U.S.C. 77b(b).

³⁸ 15 U.S.C. 80a-2(c).

³⁹ 15 U.S.C. 78c(f).

³³ See proposed rule 30a-3.

interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The proposed rules and rule and form amendments are intended to more fully implement the intent of Section 302 of the Sarbanes-Oxley Act that we adopt rules requiring the officers of investment companies to certify the accuracy of their periodic reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act. We believe that the proposals may benefit investors by providing them with greater confidence in the accuracy and completeness of the disclosure contained in the annual and semi-annual reports that they receive from management investment companies, including the financial statements. However, the magnitude of the effect of the proposals on efficiency, competition, and capital formation is difficult to quantify, particularly given that most investment companies will be required to comply with some certification requirements in other newly adopted rules.

We request comment on whether the proposed rules and rule and form amendments, if adopted, would promote efficiency, competition, and capital formation. Commenters are requested to provide empirical data and other factual support for their views if possible.

VII. Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis ("Analysis") has been prepared in accordance with 5 U.S.C. 603, and relates to the Commission's proposed rules and rule and form amendments under the Exchange Act and the Investment Company Act that would require registered management investment companies to file certified shareholder reports on Form N-CSR with the Commission, and would designate these certified reports as reports that are required under Sections 13(a) and 15(d) of the Exchange Act. These proposed rules and rule and form amendments would require each registered management investment company's principal executive and financial officers to certify the information contained in these reports in the manner required by Section 302 of the Sarbanes-Oxley Act. In addition, these proposals would uniformly apply to all registered investment companies the requirement to include in Form N-SAR the certification required by Section 302 of the Sarbanes-Oxley Act. Finally, the proposals would require every registered investment company to maintain disclosure controls and

procedures designed to ensure that the information required in its disclosure documents is recorded, processed, summarized, and reported on a timely basis.

A. Reasons for, and Objectives of, Proposed Amendments

The purpose of the proposed rules and rule and form amendments is to more fully implement the intent of Section 302 of the Sarbanes-Oxley Act that we adopt rules requiring the officers of investment companies to certify the accuracy of their periodic reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act. The proposals would require registered management investment companies to file with the Commission certified shareholder reports on Form N-CSR, and would designate these reports, in addition to reports on Form N-SAR, as filings which satisfy the reporting requirements of Sections 13(a) and 15(d) of the Exchange Act for management investment companies. We believe that by requiring the certification required by Section 302 of the Sarbanes-Oxley Act to be included in a management investment company's certified shareholder report on Form N-CSR, which contains financial statements, in addition to Form N-SAR, we are more fully implementing the intent of Section 302, which is to improve the quality of the disclosure that companies provide about their financial condition in their shareholder reports.

B. Legal Basis

The proposed rules and rule and form amendments contained in this release are being proposed pursuant to Sections 5, 6, 7, 17, and 19(a) of the Securities Act, Sections 10(b), 13, 15(d), and 23(a) of the Exchange Act, Sections 8, 24(a), 30, and 38 of the Investment Company Act, and Sections 3(a) and 302 of the Sarbanes-Oxley Act.

C. Small Entities Subject to the Rule

The proposed rules and rule and form amendments would affect registered investment companies that are small entities. For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.⁴⁰ We estimate that there are approximately 205 investment companies together with other investment companies in the same group of related investment companies

that have net assets of \$50 million or less as of the end of its most recent fiscal year.⁴¹

D. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rules and rule and form amendments would require management investment companies to include a certification in their certified shareholder reports on Form N-CSR, in addition to reports on Form N-SAR. The form of the certification would parallel the form of the certification we have prescribed for Form N-SAR. The certification would require the management investment company's principal executive and financial officers to state, in part, that, based on their knowledge, the information in the certified shareholder report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made not misleading with respect to the period covered by the report, and that the financial statements, and other financial information included in the report, fairly present the financial condition, results of operations, changes in net assets, and cash flows (if the financial statements are required to include a statement of cash flows) of the registrant. The certification also would require the signing officers to certify that they have established and maintained disclosure controls and procedures to ensure that material information relating to the registrant is made known to senior management, and also to certify that they have evaluated these procedures within 90 days of the filing date of the report. The proposals may increase the costs associated with compliance with investment companies' reporting obligations. However, this cost increase is expected to be limited, because most management investment companies are currently required to provide a similar certification with respect to their reports on Form N-SAR

E. Duplicative, Overlapping, or Conflicting Federal Rules

There are no rules that duplicate, overlap, or conflict with the proposed rules and rule and form amendments.

⁴¹ This estimate is based on figures compiled by the Commission staff regarding investment companies registered on Form N-1A, Form N-2, and Form N-3. In determining whether an insurance company separate account is a small entity for purposes of the Regulatory Flexibility Act, the assets of insurance company separate accounts are aggregated with the assets of their sponsoring insurance companies. Investment Company Act rule 0-10(b) [17 CFR 270.0-10(b)]. Currently, no insurance company separate account qualifies as a small entity.

⁴⁰ 17 CFR 270.0-10.

F. Significant Alternatives

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small issuers. In connection with the proposed rules and rule and form amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed amendments for small entities; and (iii) an exemption from coverage of the proposed amendments, or any part thereof, for small entities. The proposals are intended to more fully implement the intent of Section 302 of the Sarbanes-Oxley Act, and should help ensure that information about an investment company's business and financial condition, specifically its financial statements, is adequately reviewed by an investment company's senior executives, thereby enhancing investor confidence in the quality of its disclosure.

The Commission believes at the present time that special compliance or reporting requirements for small entities, or an exemption from coverage for small entities, would not be appropriate or consistent with investor protection. The proposed designation of certified shareholder reports on Form N-CSR, in addition to reports on Form N-SAR, as reporting forms that must contain the certification required by Section 302 of the Sarbanes-Oxley Act would improve investor confidence in the quality of an investment company's disclosure to investors in its shareholder reports, particularly the financial statements contained in these reports. We believe it is important that the benefits resulting from the certification of shareholder reports that would be required by the proposed rules be provided to investors in all management investment companies, not just investors in management investment companies that are not considered small entities. The Commission also notes that Section 302 of the Sarbanes-Oxley Act does not distinguish between small entities and other investment companies.

G. Solicitation of Comments

The Commission encourages the submission of written comments with respect to any aspect of this Analysis. Comment is specifically requested on

the number of small entities that would be affected by the proposed rules and rule and form amendments and the likely impact of the proposals on small entities. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. These comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed rules and rule and form amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves. To help us process and review your comments more efficiently, comments should be sent by one method only. Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Electronically submitted comment letters also will be posted on the Commission's Internet Web site (<http://www.sec.gov>).⁴²

VIII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA,")⁴³ we must advise the OMB as to whether the proposed rules and rule and form amendments constitute a "major" rule. Under SBREFA, a rule is considered "major" where, if adopted, it results or is likely to result in:

- An annual effect on the economy of \$100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment, or innovation.

Where a rule is "major," its effectiveness will generally be delayed for 60 days pending Congressional review. We request comment on the potential impact of the proposed rules and rule and form amendments on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

IX. Statutory Authority

The rules and rule and form amendments contained in this release are being proposed pursuant to Sections

5, 6, 7, 17, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77q, and 77s(a)], Sections 10(b), 13, 15(d), and 23(a) of the Exchange Act [15 U.S.C. 78j(b), 78m, 78o(d), and 78w(a)], Sections 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a-8, 80a-24(a), 80a-29, and 80a-37], and Sections 3(a) and 302 of the Sarbanes-Oxley Act of 2002 [Pub. L. 107-204, 116 Stat. 745].

List of Subjects

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendments

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as follows:

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 249 is amended by adding the following citations in numerical order to read as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

* * * * *

Section 249.330 is also issued under secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

Section 249.331 is also issued under secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

2. Section 249.331 is added to read as follows:

§ 249.331 Form N-CSR, certified shareholder report.

This form shall be used by registered management investment companies to file reports pursuant to § 270.30b2-1(a) of this chapter not later than 10 days after the transmission to stockholders of any report that is required to be transmitted to stockholders under § 270.30e-1 of this chapter.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

3. The authority citation for Part 270 is amended by revising the general authority citation and by adding the following citations in numerical order to read as follows:

Authority: 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, and 80a-39, unless otherwise noted;

* * * * *

⁴² We do not edit personal, identifying information, such as names or e-mail addresses, from electronic submissions. Submit only information that you wish to make publicly available.

⁴³ Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

Section 270.30a-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

* * * * *

Section 270.30a-3 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

Section 270.30b1-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

Section 270.30b2-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

Section 270.30d-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

* * * * *

4. Section 270.8b-15 is amended by adding a sentence at the end of the section to read as follows:

§ 270.8b-15 Amendments.

* * * An amendment to any report required to include the certification as specified in § 270.30a-2 must provide a new certification by each principal executive officer and principal financial officer of the registrant.

5. Section 270.30a-1 is revised to read as follows:

§ 270.30a-1 Annual reports for unit investment trusts.

Every registered unit investment trust shall file an annual report on Form N-SAR with respect to each calendar year not more than sixty calendar days after the close of each year. A registered unit investment trust that has filed a registration statement with the Commission registering its securities for the first time under the Securities Act of 1933 is relieved of this reporting obligation with respect to any reporting period or portion thereof prior to the date on which that registration statement becomes effective or is withdrawn.

6. Section 270.30a-2 (added elsewhere in this issue of the **Federal Register**) is amended by:

a. Revising the section heading as set forth below; and

b. Revising paragraphs (a) and (c) to read as follows:

§ 270.30a-2 Certification of disclosure.

(a) Each report, including transition reports, filed on Form N-SAR (§§ 249.330 and 274.101 of this chapter) by a registered management investment company or unit investment trust, and each report filed on Form N-CSR (§§ 249.331 and 274.128 of this chapter) by a registered management investment company, must include a certification

containing the information set forth in paragraph (b) of this section in the form specified in the report, except that a report of a unit investment trust or small business investment company on Form N-SAR may omit paragraph (b)(3) of this section. Each principal executive officer or officers and principal financial officer or officers of the investment company, or persons performing similar functions, at the time of filing of the report must sign the certification.

* * * * *

(c) For purposes of this section and § 270.30a-3, the term “disclosure controls and procedures” means controls and other procedures of an investment company that are designed to ensure that information required to be disclosed by the investment company in the reports, registration forms, and other filings that it files or submits under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Act is recorded, processed, summarized, and reported within the time periods specified in the Commission’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an investment company in the reports, registration forms, and other filings that it files or submits under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Act is accumulated and communicated to the investment company’s management, including its principal executive officer or officers and principal financial officer or officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

* * * * *

7. Section 270.30a-3 is added to read as follows:

§ 270.30a-3 Disclosure controls and procedures related to preparation of required filings.

(a) Every registered investment company must maintain disclosure controls and procedures (as defined in § 270.30a-2(c)).

(b) Within the 90-day period prior to the filing date of each report requiring certification under § 270.30a-2, an evaluation must be carried out under the supervision, and with the participation of, the registered investment company’s management, including the registered investment company’s principal executive officer or officers and principal financial officer or officers, or persons performing similar functions, of the effectiveness of the design and operation of the registered

investment company’s disclosure controls and procedures.

8. Section 270.30b1-1 is revised to read as follows:

§ 270.30b1-1 Semi-annual report for registered management investment companies.

Every registered management investment company shall file a semi-annual report on Form N-SAR (§§ 249.330 and 274.101 of this chapter) not more than sixty calendar days after the close of each fiscal year and fiscal second quarter. A registered management company that has filed a registration statement with the Commission registering its securities for the first time under the Securities Act of 1933 is relieved of this reporting obligation with respect to any reporting period or portion thereof prior to the date on which that registration statement becomes effective or is withdrawn.

9. Section 270.30b2-1 is revised to read as follows:

§ 270.30b2-1 Filing of reports to stockholders.

(a) Every registered management investment company shall file a report on Form N-CSR (§§ 249.331 and 274.128 of this chapter) not later than 10 days after the transmission to stockholders of any report that is required to be transmitted to stockholders under § 270.30e-1.

(b) A registered investment company shall file with the Commission a copy of every periodic or interim report or similar communication containing financial statements that is transmitted by or on behalf of such registered investment company to any class of such company’s security holders and that is not required to be filed with the Commission under paragraph (a) of this section. The filing shall be made not later than 10 days after the transmission to security holders.

10. Section 270.30d-1 is added to read as follows:

§ 270.30d-1 Designation of periodic reports under the Securities Exchange Act of 1934.

A registered management investment company required to file annual and quarterly reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall satisfy its requirement to file such reports by the filing, in accordance with the rules and procedures specified therefor, of semi-annual reports on Form N-SAR (§§ 249.330 and 274.101 of this chapter) and reports on Form N-CSR (§§ 249.331 and 274.128 of this chapter). A unit investment trust required to file

annual and quarterly reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 shall satisfy its requirement to file such reports by the filing, in accordance with the rules and procedures specified therefor, of annual reports on Form N-SAR.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

11. The authority citation for Part 274 is amended by adding the following citations to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a-8, 80a-24, 80a-26, and 80a-29, unless otherwise noted.

Section 274.101 is also issued under secs. 3(a) and 302, Pub. L. No. 107-204, 116 Stat. 745.

Section 274.128 is also issued under secs. 3(a) and 302, Pub. L. No. 107-204, 116 Stat. 745.

12. Form N-SAR (referenced in §§ 249.330 and 274.101) is amended by revising the introductory text of instruction (a) to sub-item 77Q3 to read as follows:

Note: The text of Form N-SAR does not, and this amendment will not, appear in the *Code of Federal Regulations*.

Form N-SAR

* * * * *

Instructions to Specific Items

* * * * *

Sub-Item 77Q3:

* * * * *

(a) Include the following information:

* * * * *

13. Section 274.128 is added to read as follows:

§ 274.128 Form N-CSR, certified shareholder report.

This form shall be used by registered management investment companies to file reports pursuant to § 270.30b2-1(a) of this chapter not later than 10 days after the transmission to stockholders of any report that is required to be transmitted to stockholders under § 270.30e-1 of this chapter.

14. Add Form N-CSR (referenced in §§ 249.331 and 274.128) to read as follows:

Note: The text of Form N-CSR does not, and this amendment will not, appear in the *Code of Federal Regulations*.

OMB Approval

OMB Number:

Expires:
Estimated average burden hours per response:

United States Securities and Exchange Commission, Washington, D.C. 20549

Form N-CSR

Certified Shareholder Report of Registered Management Investment Companies

Investment Company Act file number _____

(Exact name of registrant as specified in charter)

(Address of principal executive offices)
(Zip code)

(Name and address of agent for service)

Registrant's telephone number, including area code: _____

Date of fiscal year end: _____

Date of reporting period: _____

Form N-CSR is to be used by management investment companies to file reports with the Commission not later than 10 days after the transmission to stockholders of any report that is required to be transmitted to stockholders under Rule 30e-1 under the Investment Company Act of 1940 (17 CFR 270.30e-1). The Commission may use the information provided on Form N-CSR in its regulatory, disclosure review, inspection, and policymaking roles.

A registrant is required to disclose the information specified by Form N-CSR, and the Commission will make this information public. A registrant is not required to respond to the collection of information contained in Form N-CSR unless the Form displays a currently valid Office of Management and Budget ("OMB") control number. Please direct comments concerning the accuracy of the information collection burden estimate and any suggestions for reducing the burden to Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. The OMB has reviewed this collection of information under the clearance requirements of 44 U.S.C. § 3507.

General Instructions

A. Rule as to Use of Form N-CSR

Form N-CSR is a combined reporting form that is to be used for reports of registered management investment companies under Section 30(b)(2) of the Investment Company Act of 1940 and Section 13(a) or 15(d) of the Securities Exchange Act of 1934, filed pursuant to Rule 30b2-1(a) under the Investment Company Act of 1940 (17 CFR

270.30b2-1(a)). A report on this form shall be filed within 10 days after the transmission to stockholders of any annual or semi-annual report that is required to be transmitted to stockholders pursuant to Rule 30e-1 under the Investment Company Act of 1940 (17 CFR 270.30e-1).

B. Application of General Rules and Regulations

The General Rules and Regulations under the Investment Company Act of 1940 and the Securities Exchange Act of 1934 contain certain general requirements that are applicable to reporting on any form under those Acts. These general requirements should be carefully read and observed in the preparation and filing of reports on this form, except that any provision in the form or in these instructions shall be controlling.

C. Preparation of Report

1. This Form is not to be used as a blank form to be filled in, but only as a guide in preparing the report in accordance with Rules 8b-11 (17 CFR 270.8b-11) and 8b-12 (17 CFR 270.8b-12) under the Investment Company Act of 1940 and Rules 12b-11 (17 CFR 240.12b-11) and 12b-12 (17 CFR 240.12b-12) under the Securities Exchange Act of 1934. The Commission does not furnish blank copies of this form to be filled in for filing.

2. These general instructions are not to be filed with the report.

3. Attention is directed to Rule 12b-20 under the Securities Exchange Act of 1934 (17 CFR 240.12b-20), which states: "In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading."

D. Incorporation by Reference

No items of the Form shall be answered by incorporating any information by reference.

E. Signature and Filing of Report

1. If the report is filed in paper pursuant to a hardship exemption from electronic filing (see Item 201 *et seq.* of Regulation S-T (17 CFR 232.201 *et seq.*)), eight complete copies of the report shall be filed with the Commission. At least one complete copy of the report shall be filed with each exchange on which any class of securities of the registrant is registered. At least one complete copy of the report filed with the Commission and one such

copy filed with each exchange must be manually signed. Copies not manually signed must bear typed or printed signatures.

2.(a) The report must be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers (who also must provide the certification required by Rule 30a-2 under the Investment Company Act of 1940 (17 CFR 270.30a-2) exactly as specified in this form) and its principal financial officer or officers (who also must provide the certification required by Rule 30a-2 under the Investment Company Act of 1940 (17 CFR 270.30a-2) exactly as specified in this form).

(b) The name of each person who signs the report shall be typed or printed beneath his or her signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he or she signs the report. Attention is directed to Rule 12b-11 under the Securities Exchange Act of 1934 (17 CFR 240.12b-11) and Rule 8b-11 under the Investment Company Act of 1940 (17 CFR 270.8b-11) concerning manual signatures and signatures pursuant to powers of attorney.

Item 1. Shareholder Reports

Include a copy of the report transmitted to stockholders pursuant to Rule 30e-1 under the Investment Company Act of 1940 (17 CFR 270.30e-1).

Item 2. Controls and Procedures

(a) Disclose the conclusions of the registrant's principal executive officer or officers and principal financial officer or officers, or persons performing similar functions, about the effectiveness of the registrant's disclosure controls and procedures (as defined in Rule 30a-2(c) under the Investment Company Act of 1940 (17 CFR 270.30a-2(c)) based on their evaluation of these controls and procedures as of a date within 90 days of the filing date of the report that includes the disclosure required by this paragraph.

(b) Disclose whether or not there were significant changes in the registrant's internal controls or in other factors that could significantly affect these controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Signatures

[See General Instruction E]

Pursuant to the requirements of the Securities Exchange Act of 1934 and the Investment Company Act of 1940, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant) _____
By (Signature and Title)* _____
Date _____

Pursuant to the requirements of the Securities Exchange Act of 1934 and the Investment Company Act of 1940, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

By (Signature and Title)* _____
Date _____

By (Signature and Title)* _____
Date _____

*Print the name and title of each signing officer under his or her signature.

Certifications*

I, [identify the certifying individual], certify that:

1. I have reviewed this report on Form N-CSR of [identify registrant];

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations, changes in net assets, and cash flows (if the financial statements are required to include a statement of cash flows) of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Rule 30a-2(c) under the Investment Company Act of 1940) for the registrant and have:

(a) Designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within

those entities, particularly during the period in which this report is being prepared;

(b) Evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this report (the "Evaluation Date"); and

(c) Presented in this report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize, and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and

6. The registrant's other certifying officers and I have indicated in this report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: _____

[Signature]
[Title]

*Provide a separate certification for each principal executive officer and principal financial officer of the registrant. See Rule 30a-2 under the Investment Company Act of 1940 (17 CFR 270.30a-2). The required certification must be in the exact form set forth above.

By the Commission.

Dated: August 30, 2002.

Margaret H. McFarland,
Deputy Secretary.

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