

## 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.

#### Extension:

Rule 17a-1—SEC File No. 270-244—OMB Control No. 3235-0208.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a-1 under the Securities Exchange Act of 1934 (the “Act”) requires that all national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board keep on file for a period of five years, two years in an accessible place, all documents that they make or receive respecting their self-regulatory activities, and that such documents be available for examination by the Commission.

The Commission staff estimates that the average number of hours necessary for compliance with the requirements of Rule 17a-1 is 50 hours per year. There are 22 entities required to comply with the rule: 9 national securities exchanges, 1 national securities association, 11 registered clearing agencies, and the Municipal Securities Rulemaking Board. In addition, 3 national securities exchanges notice-registered pursuant to Section 6(g) of the Act are required to preserve records of determinations made under Rule 3a55-1, which the Commission staff estimates will take 1 hour per exchange, for a total of 3 hours. Accordingly, the Commission staff estimates that the total number of hours necessary to comply with the requirements of Rule 17a-1 is 1,103 hours. The average cost per hour is \$50. Therefore, the total cost of compliance for the respondents is \$55,150.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection

of information; (c) ways to enhance the quality, utility, and clarity of the information to be 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.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: July 15, 2004.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-16745 Filed 7-21-04; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26496; 812-13061]

### Cornerstone Strategic Value Fund, Inc., et al.; Notice of Application

July 16, 2004.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from section 19(b) of the Act and rule 19b-1 under the Act.

*Summary of Application:* Cornerstone Strategic Value Fund, Inc. (“Cornerstone Value”), Cornerstone Total Return Fund, Inc. (“Cornerstone Return”) and Progressive Return Fund, Inc. (“Progressive”) (collectively, the “Applicants” or “Funds”) request an order to permit them to make periodic distributions of long-term capital gains, as often as monthly, so long as they maintain in effect a distribution policy calling for periodic distributions with respect to their common stock of a fixed percentage per year of the net asset value or market price per share of the common stock or a fixed dollar amount each taxable year (“Distribution Policy”).

*Filing Dates:* The application was filed on January 20, 2004, and amended on July 13, 2004.

*Hearing or Notification of Hearing:* An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving

Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 10, 2004 and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicant, c/o Ralph W. Bradshaw, Bear Stearns Funds Management Inc., 383 Madison Avenue, New York, New York 10179.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Mann, Senior Counsel, at (202) 942-0582, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

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

#### *Applicants’ Representations:*

1. Cornerstone Value is organized as a Maryland corporation and is registered under the Act as a closed-end diversified management investment company. Cornerstone Return is organized as a New York corporation and is registered under the Act as a closed-end diversified management investment company. Progressive is organized as a Maryland corporation and is registered under the Act as a closed-end non-diversified management investment company. Cornerstone Value’s investment objective is long-term capital appreciation primarily through investment in equity securities of companies listed in the United States. Cornerstone Value has one class of common stock that is listed and traded on the American Stock Exchange (“AMEX”). Cornerstone Return’s investment objective is to seek total return consisting of capital appreciation and current income by investing primarily in equity securities of U.S. and non-U.S. issuers whose securities trade on a U.S. exchange, over-the-counter, or as American Depositary Receipts or other form of depositary receipts that trade in the U.S. Cornerstone Return has one class of common stock that is listed and traded on the AMEX. Progressive’s investment objective is to seek total return

consisting of capital appreciation and current income by investing primarily in equity securities of U.S. and non-U.S. companies and U.S. dollar denominated debt securities. Progressive has one class of common stock that is listed and traded on the AMEX. Cornerstone Advisors, Inc. ("Cornerstone Advisors"), an investment adviser registered under the Investment Advisers Act of 1940, serves as the Funds' investment adviser.

2. On June 25, 2002, the board of directors ("Board") of Cornerstone Value ("Cornerstone Value Board"), including all of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Directors"), of Cornerstone Value, adopted a Distribution Policy, pursuant to which Cornerstone Value would make monthly distributions equal to \$0.0825 per share. On September 24, 2003, the Cornerstone Value Board established the amount per share for December 2003 and the 2004 monthly distributions at \$0.087 per share. On December 27, 2001, the Board of Cornerstone Return ("Cornerstone Return Board"), including all of the Independent Directors, adopted a Distribution Policy, pursuant to which Cornerstone Return made regular monthly distributions equal to \$0.165 per share. On September 24, 2003, the Cornerstone Return Board established the amount per share for the December 2003 and 2004 monthly distributions at \$0.176 per share. On June 25, 2002, the Board of Progressive ("Progressive Board"), including all of the Independent Directors, adopted a Distribution Policy, pursuant to which Progressive made regular monthly distributions equal to \$0.2675 per share. On September 24, 2003, the Progressive Board established the amount per share for the December 2003 and the 2004 monthly distributions at \$0.282.

3. Applicants request relief to permit the Funds, so long as each maintains in effect a Distribution Policy, to make periodic long-term capital gains distributions, as often as monthly, on their outstanding common stock.

*Applicants' Legal Analysis:*

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b-1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the "Code"). Rule 19b-1(a) also permits a

supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b-1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. Applicants assert that rule 19b-1 under the Act, by limiting the number of net long-term capital gains distributions that a Fund may make with respect to any one year, would prevent the normal and efficient operation of a Distribution Policy whenever the Fund's realized net long-term capital gains in any year exceed the total of the fixed regular periodic distributions that may include such capital gains under the rule. Applicants state that rule 19b-1 thus may force the fixed regular periodic distributions to be funded with returns of capital (to the extent net investment income and realized short-term capital gains are insufficient to fund the distribution), even though realized net long-term capital gains otherwise would be available. Applicants further assert that, to distribute all of a Fund's long-term capital gains within the limits in rule 19b-1, the Fund may be required to make total distributions in excess of the annual amount called for by the Distribution Policy or retain and pay taxes on the excess amount. Applicants assert that the application of rule 19b-1 to each Fund's Distribution Policy may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. Applicants submit that one of the concerns leading to the enactment of section 19(b) and the adoption of the rule was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. Applicants state that the proposed Distribution Policies, including the fact that the distributions called for by the Distribution Policies will include returns of capital to the extent that the Funds' net investment income and net realized capital gains are insufficient to meet the minimum percentage dividend, will be fully described in each of the Funds' periodic reports to shareholders. Applicants state that, in accordance with rule 19a-1 under the Act, a statement showing the source of the distribution will accompany each distribution (or the confirmation of the reinvestment thereof under the Funds' dividend reinvestment plans). Applicants state that the amount and source of each distribution received during the calendar year will be

included with the Funds' IRS Form 1099-DIV reports of distributions during the year, which will be sent to each shareholder who received distributions (including shareholders who have sold shares during the year). Applicants state that this information also will be included in each Fund's annual report to shareholders.

4. Another concern underlying section 19(b) and rule 19b-1 is that frequent capital gains distributions could facilitate improper distribution practices, including, in particular, the practice of urging an investor to purchase fund shares on the basis of an upcoming distribution ("selling the dividend"), where the dividend results in an immediate corresponding reduction in NAV and would be, in effect, a return of the investor's capital. Applicants submit that this concern does not apply to closed-end investment companies, such as the Funds, which do not continuously distribute their shares. In addition, Applicants state that any rights offering by a Fund will be timed so that shares issuable upon exercise of the rights will be issued only in the 15-day period immediately following the record date for the declaration of a monthly dividend, or in the six-week period immediately following the record date of a quarterly dividend. Thus, Applicants state that, in a rights offering, the abuse of selling the dividend could not occur as a matter of timing. Any rights offering also will comply with all relevant Commission and staff guidelines. In determining compliance with these guidelines, the Boards will consider, among other things, the brokerage commissions that would be paid in connection with the offering. Any offering by the Funds of transferable rights will comply with any applicable National Association of Securities Dealers, Inc. rules regarding the fairness of compensation.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or class or classes of any persons, securities or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, the Applicants believe that the requested relief satisfies this standard.

*Applicants' Condition:*

Applicants agree that any order granting the requested relief shall terminate with respect to an Applicant upon the effective date of a registration statement under the Securities Act of

1933 for any future public offering by the Applicant of its common shares other than:

(i) A rights offering to holders of the Applicant's common stock, in which (a) shares are issued only within the 15-day period immediately following the record date of a monthly dividend, or within the six-week period following the record date of a quarterly dividend, (b) the prospectus for such rights offering makes it clear that shareholders exercising rights will not be entitled to receive such dividend with respect to shares issued pursuant to such rights offering, and (c) the Applicant has not engaged in more than one rights offering during any given calendar year; or

(ii) An offering in connection with a merger, consolidation, acquisition, spin-off or reorganization of the Applicant; unless the Applicant has received from the staff of the Commission written assurance that the order will remain in effect.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 04-16746 Filed 7-21-04; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

#### Federal Register Citation of Previous Announcement:

[69 FR 42471, July 15, 2004].

**STATUS:** Closed Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Tuesday, July 20, 2004 at 2 p.m.

**CHANGE IN THE MEETING:** Cancellation of Meeting.

The Closed Meeting scheduled for Tuesday, July 20, 2004 has been cancelled. Items scheduled for this meeting will be heard at the July 22, 2004 Closed Meeting.

For further information please contact the Office of the Secretary at (202) 942-7070.

Dated: July 19, 2004.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 04-16784 Filed 7-19-04; 4:20 pm]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50029; File No. SR-DTC-2003-10]

### Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of Proposed Rule Change Relating to a New Messaging Service for Stock Loan Recalls

July 15, 2004.

On July 8, 2003, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") proposed rule change File No. SR-DTC-2003-10 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> On July 21, 2003, DTC filed an amendment to the proposed rule change.<sup>2</sup> Notice of the proposed rule change was published in the **Federal Register** on June 1, 2004.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is now granting approval of the proposed rule change.

#### I. Description

The purpose of the rule change is to allow DTC to activate its Universal Hub for Stock Loan Recalls ("Universal Hub"). Universal Hub is a new messaging service that will provide participants with an efficient means for transmitting the notification and acknowledgement and maintaining such information related to stock loan recalls.

Currently, industry participants utilize faxes and phone calls to recall securities on loan. Processing stock loan recalls is generally paper intensive, which increases the risk of transmission errors and delayed responses. The lack of formal, automated mechanisms for lenders and borrowers to communicate notifications and acknowledgements of loan recalls is extremely inefficient.

To remedy these issues and to support the Securities Industry Association's Straight-Through Processing Securities Lending Subcommittee's goals, DTC has developed a universal messaging hub that, among other things, will automate the labor-intensive stock loan recall process. The Universal Hub will provide a central point of access for DTC participants engaging in stock loan recall transactions where participants can send and receive recall notices, acknowledgements, cancellations, buy-in execution details, and corporate

action notices. DTC participants utilizing either vendor-supplied Automated Stock Loan Recall Messaging Systems ("ARMS") or their own stock loan recall capability will be able to connect directly to the Universal Hub. By providing a central point of access to all parties, the Universal Hub will provide interoperability between various ARMS users and DTC participants and will permit ARMS vendors and DTC participants to avoid the costs and inefficiencies of building multiple bilateral links.

The Universal Hub's message formats will be based on ISO 15022 standards and will be supported on MQ Series and DTC's standard file transfer capabilities. The Universal Hub will create an acknowledgement/receipt record for each message processed to notify the sender that the Universal Hub has received the message and that the message was forwarded to the receiver. In addition, the Universal Hub will create a receipt record for the sender indicating that the counterparty to the stock loan recall retrieved the message from the Universal Hub. Each message will be assigned an internal control number for audit trail purposes. If the Universal Hub cannot deliver a message, it will reject the message back to the sender for resolution. The Universal Hub will only edit the header of the message to ensure successful delivery of the message. The Universal Hub will not edit the data in the actual stock loan recall message. Participants remain responsible for the details provided in their recall messages.

#### II. Discussion

Section 17A(b)(3)(F)<sup>4</sup> of the Act requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions. Implementing the Universal Hub will enable DTC to further automate the processing of stock loan recalls and will further the industry's efforts to achieve straight-through processing. As a result, DTC will be able to facilitate the prompt and accurate processing of securities transactions. As such, the proposed rule change is consistent with DTC's statutory obligation to remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The amendment changed the proposed rule change from being filed under Section 19(b)(3)(A) for immediate effectiveness to being filed under Section 19(b)(2) for notice and comment.

<sup>3</sup> Securities Exchange Act Release No. 49764 (May 25, 2004), 69 FR 30969.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).