

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2017-05 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2017-05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2017-05 and should be submitted on or before March 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-02994 Filed 2-14-17; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

##### Submission for OMB Review; Comment Request

##### *Upon Written Request, Copies Available*

*From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

##### *Extension:*

Rule 17d-1; SEC File No. 270-505, OMB Control No. 3235-0562.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Section 17(d) (15 U.S.C. 80a-17(d)) of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) (the "Act") prohibits first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled by the fund is a joint or a joint and several participant in contravention of the Commission's rules. Rule 17d-1 (17 CFR 270.17d-1) prohibits an affiliated person or principal underwriter for any fund (a "first-tier affiliate"), or any affiliated person of such person or underwriter (a "second-tier affiliate"), acting as principal, from participating in or effecting any transaction in connection with a joint enterprise or other joint arrangement in which the fund is a participant, unless prior to entering into the enterprise or arrangement "an application regarding [the transaction] has been filed with the Commission and has been granted by an order." In reviewing the proposed affiliated transaction, the rule provides that the Commission will consider whether the proposal is (i) consistent with the provisions, policies, and purposes of the Act, and (ii) on a basis different from or less advantageous than that of other participants in determining whether to grant an exemptive application for a proposed joint

enterprise, joint arrangement, or profit-sharing plan.

Rule 17d-1 also contains a number of exceptions to the requirement that a fund must obtain Commission approval prior to entering into joint transactions or arrangements with affiliates. For example, funds do not have to obtain Commission approval for certain employee compensation plans, certain tax-deferred employee benefit plans, certain transactions involving small business investment companies, the receipt of securities or cash by certain affiliates pursuant to a plan of reorganization, certain arrangements regarding liability insurance policies and transactions with "portfolio affiliates" (companies that are affiliated with the fund solely as a result of the fund (or an affiliated fund) controlling them or owning more than five percent of their voting securities) so long as certain other affiliated persons of the fund (*e.g.*, the fund's adviser, persons controlling the fund, and persons under common control with the fund) are not parties to the transaction and do not have a "financial interest" in a party to the transaction. The rule excludes from the definition of "financial interest" any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material, as long as the board records the basis for its finding in their meeting minutes.

Thus, the rule contains two filing and recordkeeping requirements that constitute collections of information. First, rule 17d-1 requires funds that wish to engage in a joint transaction or arrangement with affiliates to meet the procedural requirements for obtaining exemptive relief from the rule's prohibition on joint transactions or arrangements involving first- or second-tier affiliates. Second, rule 17d-1 permits a portfolio affiliate to enter into a joint transaction or arrangement with the fund if a prohibited participant has a financial interest that the fund's board determines is not material and records the basis for this finding in their meeting minutes. These requirements of rule 17d-1 are designed to prevent fund insiders from managing funds for their own benefit, rather than for the benefit of the funds' shareholders.

Based on an analysis of past filings, Commission staff estimates that 18 funds file applications under section 17(d) and rule 17d-1 per year. The staff understands that funds that file an application generally obtain assistance from outside counsel to prepare the application. The cost burden of using outside counsel is discussed below. The Commission staff estimates that each

<sup>19</sup> 17 CFR 200.30-3(a)(12).

applicant will spend an average of 154 hours to comply with the Commission's applications process. The Commission staff therefore estimates the annual burden hours per year for all funds under rule 17d-1's application process to be 2772 hours at a cost of \$1,113,228.<sup>1</sup> The Commission, therefore, requests authorization to increase the inventory of total burden hours per year for all funds under rule 17d-1 from the current authorized burden of 2002 hours to 2772 hours. The increase is due to an increase in the number of funds that filed applications for exemptions under rule 17d-1.

As noted above, the Commission staff understands that funds that file an application under rule 17d-1 generally use outside counsel to assist in preparing the application. The staff estimates that, on average, funds spend an additional \$93,131 for outside legal services in connection with seeking Commission approval of affiliated joint transactions. Thus, the staff estimates that the total annual cost burden imposed by the exemptive application requirements of rule 17d-1 is \$1,676,352.<sup>2</sup>

We estimate that funds currently do not rely on the exemption from the term "financial interest" with respect to any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. Accordingly, we estimate that annually there will be no transactions under rule 17d-1 that will result in this aspect of the collection of information.

Based on these calculations, the total annual hour burden is estimated to be 2772 hours and the total annual cost burden is estimated to be \$1,676,358.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of

<sup>1</sup> The Commission staff estimates that a senior executive, such as the fund's chief compliance officer, will spend an average of 62 hours and a mid-level compliance attorney will spend an average of 92 hours to comply with this collection of information: 62 hours + 92 hours = 154 hours. 18 funds × 154 burden hours = 2772 burden hours. The Commission staff estimate that the chief compliance officer is paid \$493 per hour and the compliance attorney is paid \$340 per hour. (\$493 per hour × 62 hours) + (\$340 per hour × 92 hours) = \$61,846 per fund. \$61,846 × 18 funds = \$1,113,228. The \$493 and \$340 per hour figures are based on salary information compiled by SIFMA's *Management & Professional Earnings in the Securities Industry, 2013*. The Commission staff has modified SIFMA's information to account for an 1800-hour work year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

<sup>2</sup> The estimate is based on the following calculation: \$93,131 × 18 funds = \$1,676,358.

the costs of Commission rules. Complying with these collections of information requirement is necessary to obtain the benefit of relying on rule 17d-1. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta.Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: February 8, 2017.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-02976 Filed 2-14-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

#### Extension:

Form BD-N/Rule 15b11-1; SEC File No. 270-498, OMB Control No. 3235-0556.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 15b11-1 (17 CFR 240.15b11-1) under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*) and Form BD-N (17 CFR 249.501b).

Rule 15b11-1 provides that a broker or dealer may register by notice pursuant to section 15(b)(11)(A) of the Exchange Act (15 U.S.C. 78o(b)(11)(A))

if it: (1) Is registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker, as those terms are defined in the Commodity Exchange Act (7 U.S.C. 1, *et seq.*); (2) is a member of the National Futures Association or another national securities association registered under section 15A(k) of the Exchange Act (15 U.S.C. 78o-3(k)); and (3) is not required to register as a broker or dealer in connection with transactions in securities other than security futures products. The rule also requires a broker or dealer registering by notice to do so by filing Form BD-N in accordance with the instructions to the form. In addition, the rule provides that if the information provided by filing the form is or becomes inaccurate for any reason, the broker or dealer shall promptly file an amendment on the form correcting such information.

The Commission staff estimates that the total annual reporting burden associated with Rule 15b11-1 and Form BD-N is approximately three hours, based on an average of two initial notice registrations per year that each take approximately 30 minutes to complete, for one hour, plus an average of nine amendments per year that each take approximately fifteen minutes to complete, for 2.25 hours, rounded down to two hours, for a total of three hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta.Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: February 8, 2017.

**Eduardo A. Aleman,**  
Assistant Secretary.

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