

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available

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

Revision and Extension:

Rule 203A-2(f); SEC File No. 270-501; OMB Control No. 3235-0559.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("PRA"), the Securities and Exchange Commission ("Commission") is soliciting comments on the collections 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 203A-2(f),¹ which is entitled "Internet Investment Advisers," exempts from the prohibition on Commission registration an Internet investment adviser who provides investment advice to all of its clients exclusively through computer software-based models or applications, termed under the rule as "interactive websites." These advisers generally would not meet the statutory thresholds currently set out in section 203A of the Advisers Act² or the thresholds set out in section 203A as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") beginning on July 21, 2011³—they do not manage \$25 million or more in assets and do not advise registered investment companies,⁴ or they manage between \$25 million and \$100 million in assets, do not advise registered investment companies or business development companies, and are required to be registered as investment advisers with the states in which they maintain their principal offices and places of business and are subject to examination as an adviser by such states.⁵ Eligibility under

rule 203A-2(f) is conditioned on an adviser maintaining in an easily accessible place, for a period of not less than five years from the filing of Form ADV relying on the rule,⁶ a record demonstrating that the adviser's advisory business has been conducted through an interactive website in accordance with the rule.⁷

This record maintenance requirement is a "collection of information" for PRA purposes. The Commission believes that approximately 58 advisers are registered with the Commission under rule 203-2A(f), which involves a recordkeeping requirement manifesting in approximately four burden hours per year per adviser and results in an estimated 232 of total burden hours (4 × 58) for all advisers.

This collection of information is mandatory, as it is used by Commission staff in its examination and oversight program in order to determine continued Commission registration eligibility for advisers registered under this rule. Responses generally are kept confidential pursuant to section 210(b) of the Advisers Act.⁸ 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 will have practical utility; (b) The accuracy of the agency's estimate of the burden of the collection of information; (c) Ways to enhance the quality, utility, and clarity of the information collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: PRA_Mailbox@sec.gov.

\$100 million also will be permitted to register with the Commission if it would be required to register with 15 or more states. These amendments are effective on July 21, 2011.

⁶ The five-year record retention period is a similar recordkeeping retention period as imposed on all advisers under rule 204-2 of the Adviser Act. See rule 204-2 (17 CFR 275.204-2).

⁷ 17 CFR 275.203A-2(f)(1)(ii).

⁸ 15 U.S.C. 80b-10(b).

Dated: March 15, 2011.

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011-6367 Filed 3-17-11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available

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

Extension:

Rule 19b-1; SEC File No. 270-312; OMB Control No. 3235-0354.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), 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 ("OMB") for extension and approval.

Section 19(b) of the Investment Company Act of 1940 (the "Act") (15 U.S.C. 80a-19(b)) authorizes the Commission to regulate registered investment company ("fund") distributions of long-term capital gains made more frequently than once every twelve months. Rule 19b-1 under the Act¹ prohibits funds from distributing long-term capital gains more than once every twelve months unless certain conditions are met. Rule 19b-1(c)(17) CFR 270.19b-1(c)) permits unit investment trusts ("UITs") engaged exclusively in the business of investing in certain eligible fixed-income securities to distribute long-term capital gains more than once every twelve months, if: (i) The capital gains distribution falls within one of several categories specified in the rule² and (ii) the distribution is accompanied by a report to the unit holder that clearly describes the distribution as a capital gains distribution (the "notice requirement").³ Rule 19b-1(e) (17 CFR 270.19b-1(e)) permits a fund to apply to

¹ 17 CFR 270.19b-1.

² 17 CFR 270.19b-1(c)(1).

³ The notice requirement in rule 19b-1(c)(2) (17 CFR 270.19b-1(c)(2)) supplements the notice requirement of section 19(a) [15 U.S.C. 80a-19(a)] and rule 19a-1 [17 CFR 270.19a-1], which requires any distribution in the nature of a dividend payment made by a fund to its investors to be accompanied by a notice disclosing the source of the distribution.

¹ 17 CFR 275.203A-2(f). Included in rule 203A-2(f) is a limited exception to the interactive website requirement which allows these advisers to provide investment advice to no more than 14 clients through other means on an annual basis. 17 CFR 275.203A-2(f)(1)(i). The rule also precludes advisers in a control relationship with the SEC-registered Internet adviser from registering with the Commission under the common control exemption provided by rule 203A-2(c) (17 CFR 275.203A-2(c)). 17 CFR 275.203A-2(f)(1)(iii).

² 15 U.S.C. 80b-3a(a).

³ Public Law 111-203, 124 Stat. 1376 (2010).

⁴ 15 U.S.C. 80b-3a(a).

⁵ See section 410 of the Dodd-Frank Act. A mid-sized adviser managing between \$25 million and

the Commission for permission to distribute long-term capital gains more than once a year if the fund did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution.⁴ An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application.

Commission staff estimates that, on average, each year six funds file an application under rule 19b-1(e). The staff understands that funds that file an application generally use outside counsel to prepare the application. The cost burden of using outside counsel is discussed below. The staff estimates that, on average, the fund's investment adviser spends a total of approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel, 0.5 hours by an administrative assistant, and the fund's board of directors spends an additional 1 hour, for a total of 5 hours. Thus, the Commission staff estimates that the annual hour burden of the collection of information imposed by rule 19b-1 is approximately five hours per fund, for a total burden of 30 hours.

The Commission staff estimates that there is no hourly burden associated with complying with the collection of information component of rule 19b-1(c).

As noted above, the Commission staff understands that funds that file an application under rule 19b-1(e) generally use outside counsel to prepare the application.⁵ The staff estimates that, on average, outside counsel spends 10 hours preparing a rule 19b-1(e) application, including eight hours by an associate and two hours by a partner. Outside counsel billing arrangements and rates vary based on numerous factors, but the staff has estimated the average cost of outside counsel as \$400 per hour, based on information received from funds, intermediaries, and their counsel. The staff therefore estimates that the average cost of outside counsel preparation of the 19b-1(e) exemptive application is \$4,000.⁶ Thus, the staff estimates that the total annual cost burden imposed by the exemptive

application requirements of rule 19b-1(e) is \$24,000.⁷

The Commission staff estimates that there are approximately 3759 UITs⁸ that may rely on rule 19b-1(c) to make capital gains distributions. The staff estimates that, on average, these UITs rely on rule 19b-1(c) once a year to make a capital gains distribution.⁹ In most cases, the trustee of the UIT is responsible for preparing and sending the notices that must accompany a capital gains distribution under rule 19b-1(c)(2). These notices require limited preparation, the cost of which accounts for only a small, indiscrete portion of the comprehensive fee charged by the trustee for its services to the UIT. The staff believes that as a matter of good business practices, and for tax preparation reasons, UITs would collect and distribute the capital gains information required to be sent to unitholders under rule 19b-1(c) even in the absence of the rule. The staff estimates that the cost of preparing a notice for a capital gains distribution under rule 19b-1(c)(2) is approximately \$50. There is no separate cost to mail the notices because they are mailed with the capital gains distribution. Thus, the staff estimates that the capital gains distribution notice requirement imposes an annual cost on UITs of approximately \$187,950.¹⁰ The staff therefore estimates that the total cost imposed by rule 19b-1 is \$211,950 (\$187,950 plus \$24,000 equals \$211,950).

Based on these calculations, the total number of respondents for rule 19b-1 is estimated to be 3,765 (3759 UIT portfolios + 6 funds filing an application under rule 19b-1(e)), the total annual hour burden is estimated to be 30 hours, and the total annual cost burden is estimated to be \$211,950. These estimates of average annual burden hours and costs are made solely for purposes of the Paperwork Reduction Act. The collections of information required by 19b-1(c) and 19b-1(e) are necessary to obtain the benefits

⁷ This estimate is based on the following calculation: \$4,000 multiplied by 6 (funds) equals \$24,000.

⁸ The Investment Company Institute, Unit Investment Trust Data, (January 2011).

⁹ The number of times UITs rely on the rule to make capital gains distributions depends on a wide range of factors and, thus, can vary greatly across years. A number of UITs are organized as grantor trusts, and therefore do not generally make capital gains distributions under rule 19b-1(c), or may not rely on rule 19b-1(c) as they do not meet the rule's requirements. Other UITs may distribute capital gains biannually, annually, quarterly, or at other intervals.

¹⁰ This estimate is based on the following calculation: 3,759 UITs multiplied by \$50 equals \$187,950.

described above. 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.

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

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Dated: March 15, 2011.

Cathy H. Ahn,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

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

Extension:

Rule 17f-5; SEC File No. 270-259; OMB Control No. 3235-0269.

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Rule 17f-5 under the Investment Company Act of 1940 (15 U.S.C. 80a) ("Investment Company Act" or "Act")

⁴ Rule 19b-1(e) also requires that the application comply with rule 0-2 [17 CFR 270.02], which sets forth the general requirements for papers and applications filed with the Commission.

⁵ This understanding is based on conversations with representatives from the fund industry.

⁶ This estimate is based on the following calculation: 10 hours multiplied by \$400 per hour equals \$4,000.