

Filing of Appeal letter
December 27, 1996
Commission Notice and Order of Filing of Appeal
January 17, 1997
Last day of filing of petitions to intervene [see 39 CFR § 3001.111(b)]
January 27, 1997
Petitioners' Participant Statement or Initial Brief [see 39 CFR § 3001.115 (a) and (b)]
February 18, 1997
Postal Service's Answering Brief [see 39 CFR § 3001.115(c)]
March 5, 1997
Petitioners' Reply Brief should Petitioner choose to file one [see 39 CFR § 3001.115(d)]
March 12, 1997
Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR § 3001.116]
April 22, 1997
Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)]

[FR Doc. 96-30 Filed 1-2-97; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Proposed New Rules

Rule 203A-2; SEC File No. 270-431; OMB Control No. 3235-new.
Rule 203A-5; SEC File No. 270-432; OMB Control No. 3235-new.

Proposed Amendments

Rule 203-1 and Form ADV: SEC File No. 270-39; OMB Control No. 3235-0049.
Rule 204-1; SEC File No. 270-41; OMB Control No. 3235-0048.
Rule 204-2; SEC File No. 270-315; OMB Control No. 3235-0278.

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

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 requests for approval of the following proposed rules and forms.

On October 11, 1996 President Clinton signed into law the National Securities Markets Improvement Act of 1996 ("1996 Act"). Title III of the 1996 Act, the Investment Advisers Supervision Coordination Act

("Coordination Act"), amended the Investment Advisers Act of 1940 to, among other things, reallocate the responsibilities for regulating investment advisers between the Commission and the securities regulatory authorities of the states. The most significant of these amendments reallocates federal and state responsibilities for the regulation of the approximately 22,500 investment advisers currently registered with the Commission. These amendments will become effective on April 9, 1997. Based on information provided by advisers, the Commission estimates that approximately 72 percent of the advisers currently registered with the Commission will not be eligible for Commission registration after April 9, 1997.

The Commission has published for comment new rules and rule amendments to implement Congressional intent to reallocate regulatory responsibilities for investment advisers between the Commission and state securities authorities. The Commission is also revising several of its rules that currently apply to all investment advisers to make such rules applicable only to advisers registered or required to be registered with the Commission. The proposed rules would establish the process by which certain advisers would withdraw from Commission registration, exempt certain advisers from the prohibition on Commission registration, and define certain terms. The proposed amendments to rules under the Advisers Act would reflect the changes made by the Coordination Act. Certain provisions of the proposed rules and rule amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Those provisions are summarized below.

Rule 203A-2(d)

Proposed rule 203A-2(d) would exempt from the prohibition on Commission registration a newly formed adviser that has a reasonable expectation that it will be eligible for Commission registration within 90 days, provided certain conditions are met. Proposed rule 203A-2(d) contains two related collection of information requirements. The collection of information would be necessary to determine the eligibility of certain investment advisers to rely on the proposed "reasonable expectation" exemption from the prohibition on Commission registration, and to implement that exemption. It is

anticipated that this collection of information would be found at 17 CFR 275.203A-2(d). An adviser relying on the exemption provided by proposed rule 203A-2(d) would be required to file a short written undertaking on Schedule E to Form ADV, indicating that the adviser will withdraw from registration if on the 90th day after registering with the Commission the adviser does not meet the eligibility requirements for registration under section 203A of the Advisers Act and rules thereunder. At the end of the 90-day period, the adviser also would be required to file an amended Schedule I to Form ADV. If the adviser indicates on the amended Schedule I that it has not become eligible to register with the Commission, the adviser would be required to file a Form ADV-W concurrently with the Schedule I, thereby withdrawing its registration with the Commission. The likely respondents to this information collection are newly formed investment advisers that are not currently registered with the Commission or with the states. The Commission estimates that there would be 100 such respondents per year, and that each respondent would respond one time per year. The weighted average total annual time burden for each respondent is estimated to be 57.5 minutes. This figure is based upon the following estimates: (i) 45 minutes for the approximately 90 advisers that advise registered investment companies, that do not need to calculate assets under management to complete Schedule I, or that need to calculate assets under management but do so as part of their normal business operations; (ii) 2 hours for the approximately 10 advisers that must calculate assets under management for the sole purpose of filing Schedule I; and (iii) 5 minutes for all respondents to prepare the undertaking required on Schedule E to Form ADV. The Commission estimates that the aggregate annual burden for all respondents would be 95.83 hours. Providing this information would be mandatory to qualify for the exemption under proposed rule 203A-2(d), and responses would not be kept confidential.

Rule 203A-5 and Form ADV-T

Proposed rule 203A-5 and Form ADV-T contain collection of information requirements. This collection of information is necessary for the Commission to determine whether advisers meet the proposed eligibility criteria for Commission registration set forth in section 203A of the Advisers Act and rules thereunder, and to provide for the orderly withdrawal from Commission

registration for advisers that are no longer eligible. It is anticipated that this collection of information would be found at 17 CFR 275.203A-5 and 17 CFR 279.3. Under proposed rule 203A-5 and 17 CFR 279.3. Under proposed rule 203A-5, all advisers registered with the Commission on April 9, 1997 would be required to file a completed Form ADV-T no later than that date. Form ADV-T would require each adviser to declare whether it remains eligible for Commission registration. For an adviser that declares itself *not* eligible for Commission registration, Form ADV-T would serve as a request for withdrawal of the adviser's registration as of April 9, 1997. The likely respondents to this information collection are all investment advisers registered with the Commission on April 9, 1997. The Commission estimates that there would be 22,500 such respondents to this collection of information. Each respondent would respond once. The weighted average annual time burden for each respondent is estimated to be 53.33 minutes. This figure is based upon the following estimates: (i) 45 minutes for the approximately 20,000 advisers that advise registered investment companies, that do not need to calculate assets under management to complete Form ADV-T, or that need to calculate assets under management but do so as part of their normal business operations; (ii) 2 hours for the approximately 2,500 advisers that must calculate assets under management for the sole purpose of filing Form ADV-T. The aggregate annual burden for all 22,500 advisers is estimated to be 19,998 hours. Providing the information would be mandatory, and responses would not be kept confidential.

Rule 203-1 and Form ADV

Rule 203-1 and Form ADV, including the proposed new Schedule I to Form ADV, contain information collection requirements. Form ADV is required by rule 201-1 to be filed by every applicant for registration with the Commission as an investment adviser, is mandatory, and responses are not kept confidential. This collection of information is found at 17 CFR 275.203-1 and 17 CFR 279.1. The Commission in the past received approximately 3,500 applications for registration on Form ADV in one year. The weighted average burden hours for completing Form ADV is currently 9.0063, and the total annual burden hours currently approved by OMB for this form is 31,522 hours.

The Commission is proposing to amend Form ADV to include a new Schedule I. The Commission is not proposing to amend rule 203-1.

Schedule I would require an applicant to declare whether it is eligible for Commission registration. This new requirement is necessary for the Commission to determine whether advisers meet the eligibility criteria for Commission registration set forth in section 203A of the Advisers Act and rules thereunder. The likely respondents to this information collection would be all applicants for registration with the Commission after April 9, 1997. Based on the Commission's experience in processing adviser applications, and the percentage of applicants in the past without assets under management, the Commission estimates that after April 9, 1997 the number of applicants for registration will decrease from approximately 3,500 to between 500 and 1000 annually. The weighted average total annual time burden for each applicant to complete Schedule I on average is estimated to be 52.5 minutes. This figure is based upon the following estimates. Compliance with the requirement to complete Schedule I imposes a total burden per applicant of approximately 45 minutes for the approximately 90 percent of applicants that advise registered investment companies, that do not need to calculate assets under management to complete Schedule I, or that need to calculate assets under management but do so as a part of their normal business operations. For the approximately 10 percent of applicants that must calculate assets under management for Schedule I, however, this burden would be 2 hours. Providing this information would be mandatory. Amending Form ADV to include new Schedule I is estimated to increase the weighted average burden hours for applicants completing Form ADV to 9.8813 hours. As a result of the new Schedule I, together with the reduction of the number of investment advisers registered with the Commission, the annual aggregate burden for all respondents for completing amended Form ADV is estimated to be between 4,940.65 and 9,881.3 hours.

Rule 204-1

Rule 204-1, including the proposed amendment to the rule, includes collection of information requirements. Rule 204-1 sets forth the circumstances requiring the filing of an amendment to Form ADV, the form that must be filed with the Commission to register as an investment adviser. This collection of information is found at 17 CFR 275.204-1, is mandatory, and responses are not kept confidential. The total annual burden currently approved by OMB for rule 204-1 is approximately 21,438

hours for the 20,088 advisers registered with the Commission in 1994.

The proposed amendments to rule 204-1 would require an adviser to file an amended Schedule I to Form ADV annually within 90 days of the end of the adviser's fiscal year. Schedule I would require an adviser to declare whether it remains eligible for Commission registration. The new requirement is necessary for the Commission to determine whether advisers continue to meet the eligibility criteria for Commission registration set forth in section 203A of the Advisers Act and rules thereunder. The likely respondents to this information collection are all investment advisers registered with the Commission after April 9, 1997. The Commission estimates that there would be 6,300 such respondents to this collection of information (28% of the approximately 22,500 registered investment advisers as of April 9, 1997). Each respondent would respond one time per year. The total annual time burden for each respondent is estimated to be 52.14 minutes. This figure is based upon the following estimates. Compliance with the requirement to file an amended Schedule I would impose a total annual burden per adviser of approximately 45 minutes for the approximately 5,700 advisers that advise registered investment companies, that do not need to calculate assets under management to complete Schedule I, or that need to calculate assets under management but do so as part of their normal business operations. For the approximately 600 advisers that must calculate assets under management for Schedule I, however, this burden would be 2 hours. Providing the information would be mandatory and responses would not be kept confidential. Based on the Commission's experience under rule 204-1, and taking into account the new requirement to annually amend Schedule I, the Commission anticipates that each adviser eligible for Commission registration after April 9, 1997 will respond to the information collection requirements of rule 204-1, as proposed to be amended, an average of 1.5 times annually. The Commission estimates that the annual aggregate burden for all respondents under rule 204-1 will be 18,297.09 hours.

Rule 204-2

Section 204 of the Advisers Act provides that investment advisers required to register with the Commission must make and keep for prescribed periods such records, and furnish such copies thereof, and make and disseminate such reports as the

Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Rule 204-2 sets forth requirements for keeping, maintaining and preserving specified books and records by investment advisers. This collection of information is found at 17 CFR 275.204-2, is mandatory, is used by the Commission staff in its oversight program, and generally is kept confidential. See section 210(b) of the Advisers Act [15 U.S.C. 80b-10(b)]. Currently, compliance with the rule requires approximately 235.47 hours each year per Commission-registered investment adviser, for a total of 5,180,340 hours for all 22,000 advisers registered last year.

The proposed amendments to rule 204-2 would clarify the application of the rule's recordkeeping requirements to advisers that register with the Commission after having been registered with the states. The proposed amendments are necessary (i) to make the books and recordkeeping requirements of that rule applicable only to advisers registered with the Commission, and (ii) to clarify the rule's application to investment advisers that transfer from state to Commission registration after April 9, 1997. The Commission is proposing to amend rule 204-2 to make the rule's books and recordkeeping requirements applicable only to advisers registered with the Commission after the Coordination Act's effective date. This amendment would relieve the approximately 16,200 of the 22,500 advisers currently registered that will not be eligible for Commission registration after April 9, 1997 from the recordkeeping burdens imposed by this rule.

The Commission is also proposing to amend rule 204-2 to require an adviser that registers with the Commission after April 9, 1997 to preserve any books and records that the adviser was previously required to maintain under state law. These books and records would be required to be maintained in the manner and for the period of time as the other books and records required to be maintained under rule 204-2(a). This collection of information would be found at 17 CFR 275.204-2. The likely respondents to this information collection are all investment advisers registered with the Commission after April 9, 1997. The Commission estimates that there would be 6,300 such respondents to this collection of information. Each respondent would retain records on an ongoing basis. The total annual time burden for each respondent is estimated to be 235.47 hours. The proposed amendments

would not change the burden last reported to the OMB. As a result of the reduction of the number of investment advisers registered with the Commission, the annual aggregate burden for all respondents to the recordkeeping requirements under rule 204-2 is estimated to be 1,483,461 hours.

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

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: December 20, 1996.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-21 Filed 1-2-97; 8:45 am]

BILLING CODE 8010-01-M

Submission for OMB Review; Comment Request

Approval of Existing Collections

Rule 9b-1; SEC File No. 270-429; OMB Control No. 3235-New.
Rule 15c2-8; SEC File No. 270-421;
OMB Control No. 3235-New.

Extensions

Rule 12f-1; SEC File No. 270-139; OMB Control No. 3235-0128.
Rule 12f-2 and Form 27; SEC File No. 270-140; OMB Control No. 3235-0248.
Rule 12f-3 and Form 28; SEC File No. 270-141; OMB Control No. 3235-0249.
Rule 12a-5 and Form 26; SEC File No. 270-85; OMB Control No. 3235-0079.
Rule 15Aj-1, Form X-15AJ-1 and Form X-15AJ-2; SEC File No. 270-25; OMB Control No. 3235-0044.
Rule 15c2-11; SEC File No. 270-196; OMB Control No. 3235-0202.

Upon Written Request, Copies Available From: Securities and

Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

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 requests for approval of existing collections without OMB approval and extension on previously approved collections of information:

Rule 9b-1 sets forth the categories of information required to be disclosed in an options disclosure document (ODD) and requires the options markets to file an ODD with the Commission 60 days prior to the date it is distributed to investors. In addition, Rule 9b-1 provides that the ODD must be amended if the information in the document becomes materially inaccurate or incomplete and that amendments must be filed with the Commission 30 days prior to the distribution to customers. Finally, Rule 9b-1 requires a broker-dealer to furnish to each customer and ODD and any amendments, prior to accepting an order to purchase or sell an option on behalf of that customer.

There are 5 options markets that must comply with Rule 9b-1. These 5 respondents work together to prepare a single ODD covering options traded on each market, as well as amendments to the ODD. These respondents file no more than one amendment per year, which requires approximately 8 hours per year for each respondent. Thus, the total compliance burden for options markets per year is 40 hours. The approximate cost per hour is \$100, resulting in a total cost of compliance for these respondents of \$4,000 per year (40 hours @ \$100).

In addition, approximately 2,000 broker-dealers must comply with Rule 9b-1. Each of these respondents will process an average of three new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual compliance burden for each of these respondents of 78 minutes, or 1.3 hours. Thus, the total compliance burden per year is 2,600 hours (2,000 broker-dealers x 1.3 hours). The approximate cost per hour to these respondents is \$10 per hour, resulting in a total cost of compliance for these respondents of \$26,000 per year (2,600 hours @ 1.3 hours).

The total compliance burden for all respondents under this rule (both