

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–03–AD.

Applicability: All Model 727 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the forward flange of the vertical beam of the aft pressure bulkhead, which could result in the inability of the subject vertical beam to withstand the fail-safe loads, and consequent loss of cabin pressurization, accomplish the following:

(a) Perform a close visual inspection and a high frequency eddy current (HFEC) inspection to detect cracks in the forward flange of the vertical beam at left and right buttock line 17.8 from water lines 265 through 288 inclusive, in accordance with Boeing Service Bulletin 727–53–0210, dated April 1, 1993, as revised by Notice of Status Change 727–53–0210 NSC 1, dated June 17, 1993, and Notice of Status Change 727–53–0210 NSC 2, dated September 21, 1995; at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes on which the preventative modification specified in Boeing Service Bulletin 727–53–0210, dated April 1, 1993; or Boeing Service Bulletin 727–53–0055, Revision 6, dated February 28, 1986, Revision 7, dated March 5, 1987, Revision 8, dated December 17, 1987, or Revision 9, dated August 3, 1989; has not been

accomplished: Inspect prior to the accumulation of 18,500 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the preventative modification specified in Boeing Service Bulletin 727–53–0210, dated April 1, 1993, or Boeing Service Bulletin 727–53–0055, Revision 6, dated February 28, 1986, Revision 7, dated March 5, 1987, Revision 8, dated December 17, 1987, or Revision 9, dated August 3, 1989, has been accomplished: Inspect prior to the accumulation of 40,000 flight cycles since installation of preventative modification, or with 1,500 flight cycles after the effective date of this AD, whichever occurs later. Repeat the close visual and HFEC inspections thereafter at intervals not to exceed 6,000 flight cycles.

Note 2: The compliance times specified in paragraphs (a)(1) or (a)(2) of this AD remain the same regardless of whether any splice repair has or has not been accomplished in accordance with any service bulletin specified in those paragraphs.

(b) If no crack is detected during any inspection required by paragraph (a)(1) or (a)(2) of this AD, accomplish paragraph (b)(1) or (b)(2) of this AD.

(1) Prior to further flight, install the preventative modification on the door frames in accordance with Boeing Service Bulletin 727–53–0210, dated April 1, 1993, as revised by Notice of Status Change 727–53–0210 NSC 1, dated June 17, 1993, and Notice of Status Change 727–53–0210 NSC 2, dated September 21, 1995. Prior to the accumulation of 40,000 flight cycles following accomplishment of the preventative modification, accomplish the close visual and HFEC inspections specified in paragraph (a) of this AD. Repeat those inspections thereafter at intervals not to exceed 6,000 flight cycles. Or

(2) Repeat the close visual and HFEC inspections required by paragraph (a) of this AD thereafter at the intervals not to exceed 3,000 flight cycles.

(c) If any crack is detected during any inspection required by paragraph (a)(1), (a)(2), or (a)(3) of this AD, prior to further flight, install the splice repair kits in accordance with Boeing Service Bulletin 727–53–0210, dated April 1, 1993, as revised by Notice of Status Change 727–53–0210 NSC 1, dated June 17, 1993, and Notice of Status Change 727–53–0210 NSC 2, dated September 21, 1995. Prior to further flight following accomplishment of the splice repair, install the splice repair with the preventative modification on the door frames in accordance with the service bulletin. Prior to the accumulation of 40,000 flight cycles following accomplishment of the preventative modification, accomplish the close visual and HFEC inspections specified in paragraph (a) of this AD. Repeat those inspections thereafter at intervals not to exceed 6,000 flight cycles.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators

shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 11, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–18936 Filed 7–17–97; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 202, 230, 232, 239, 270, and 274

[Release Nos. 33–7430, IC–22747, File No. S7–19–97]

RIN 3235–AG73

Registration Under the Securities Act of 1933 of Certain Investment Company Securities

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing amendments to the rule and the form under the Investment Company Act of 1940 that prescribe the method by which certain investment companies calculate and pay registration fees under the Securities Act of 1933. The proposed amendments are designed to implement the provisions of the National Securities Markets Improvement Act of 1996 that simplify the method of determining the amount of these fees.

DATES: Comments must be received on or before August 18, 1997.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6–9, Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–19–97; this file number should be included on the subject line if E-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 also will be posted on the Commission's Internet web site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT:

Robin S. Gross, Staff Attorney, or Nadya B. Roytblat, Assistant Office Chief, at (202) 942-0690, Office of Regulatory Policy, Division of Investment Management, Stop 10-2, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is requesting public comment on amendments to rule 24f-2 (17 CFR 270.24f-2) and Form 24F-2 (17 CFR 274.24) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act"). In addition, the Commission is proposing conforming amendments to rule 485 (17 CFR 230.485) under the Securities Act of 1933 (15 U.S.C. 77a) (the "Securities Act"); Form N-1A (17 CFR 274.11A and 239.15A), Form N-3 (17 CFR 274.11b and 239.17a), and Form N-4 (17 CFR 274.11c and 239.17b), the registration forms used by certain types of investment companies to register under the Investment Company Act and to register their securities under the Securities Act; Form S-6 (17 CFR 239.16), the form used by unit investment trusts to register their securities under the Securities Act; Form N-14 (17 CFR 239.23), the form used by investment companies to register under the Securities Act securities issued in business combination transactions; rule 24e-1 under the Investment Company Act (17 CFR 270.24e-1); rule 13 of Regulation S-T (17 CFR 232.13); and rule 3a of Informal and Other Procedures (17 CFR 202.3a). The Commission is also proposing to rescind rules 24e-2 and 24f-1 under the Investment Company Act (17 CFR 270.24e-2 and 270.24f-1).

Table of Contents

Executive Summary

I. Background

II. Discussion

A. Amendments to Rule 24f-2

1. Form Filing Requirements

2. Fund Mergers and Reorganizations

B. Amendments to Form 24F-2

1. General Information (Proposed Items 1-4)

2. The Worksheet

a. Sales Information (Proposed Item 5(ii))

b. Redemption Information (Proposed Items 5(ii)-5(iv))

c. Registration Fee Calculation (Proposed Items 5(v)-5(iii))

3. Interest and Other Payment Information (Proposed Items 6-8)

4. Request for Comment

C. Conforming Amendments

1. Rule Rescissions

2. Conforming Amendments to Forms and Rules

D. General Request for Comment

III. Cost/Benefit Analysis

IV. Paperwork Reduction Act

V. Summary of Regulatory Flexibility Analysis

VI. Statutory Authority

Text of Proposed Rule and Form Amendments

Executive Summary

The Commission is proposing amendments to rule 24f-2 and Form 24F-2 under the Investment Company Act that prescribe the methods by which certain investment companies calculate and pay registration fees under the Securities Act. The proposed amendments are designed to implement a provision of the National Securities Markets Improvement Act of 1996 ("Improvement Act") that amended sections 24 (e) and (f) of the Investment Company Act to simplify the current system for registering investment company securities. The proposed amendments to rule 24f-2 and Form 24F-2 would streamline the rule and Form to make them consistent with amended section 24.

I. Background

The Securities Act generally requires issuers that wish to offer their securities publicly to register the securities with the Commission and pay a registration fee.¹ The application of these provisions has presented operational problems for certain types of investment companies. Unlike other issuers, open-end management investment companies, unit investment trusts and face-amount certificate companies (collectively, "funds") sell and redeem their securities on a continuous basis. A fund often cannot predict the number of securities it will sell at the time it files its registration statement under the Securities Act. In addition, funds often experience a high turnover in their outstanding securities, as a substantial number of securities that are sold replace securities that recently have been redeemed or repurchased.²

Section 24 of the Investment Company Act modifies the Securities

¹ Section 5(a) of the Securities Act (15 U.S.C. 77e(a)) makes it unlawful to sell a security through the mails or in interstate commerce unless a registration statement is in effect as to that security. Section 6(a) (15 U.S.C. 77f(a)) sets forth certain requirements for registration statements. Section 6(b) (15 U.S.C. 77f(b)) specifies the fees that must be paid in connection with registering securities with the Commission under the Securities Act.

² See Computation of Filing Fees for Securities Registered by Open-End Management Companies, Investment Company Act Rel. No. 9677 (Mar. 15, 1977) (42 FR 15922 (Mar. 24, 1977)) (adopting amendments to rule 24e-2).

Act registration provisions for funds.³ Section 24 and related rules were designed to address the problem of inadvertent "over sales" (i.e., sales in excess of securities registered) that easily could occur with a fund that continually issues securities.⁴ Section 24(e) permits a fund to register additional securities by a post-effective amendment to a registration statement.⁵ Section 24(f) permits a fund to register securities within six months after their sale, but requires that the fund pay three times the registration fee that otherwise would be due under section 6(c) of the Securities Act.⁶

Section 24(f) also authorizes the Commission to adopt rules to permit funds to register an indefinite number of securities. In 1977, the Commission exercised this authority and adopted rule 24f-2.⁷ Rule 24f-2 permits a fund to declare that it is registering an indefinite number of securities ("rule 24f-2 declaration").⁸ After the end of each of its fiscal years, the fund must file a notice on Form 24F-2 to make the registration of securities it sold during the fiscal year "definite" and pay a registration fee with respect to those securities.⁹ Under certain circumstances, the fund may offset, or "net," sales made during the fiscal year against redemptions effected during the fiscal year for the purpose of calculating the fund's Securities Act registration fee.¹⁰

These statutory provisions and rules, taken together, have provided funds with significant flexibility to avoid over sales and to reduce their registration fees. These provisions, however, are highly complex. Funds are presented with a number of options for registering their securities and using redemptions to offset sales. Inadvertent non-compliance with, failure to understand the interrelationship of, or a late filing

³ 15 U.S.C. 80a-24.

⁴ See Investment Company Act Rel. No. 15611 (Mar. 9, 1987) (52 FR 8302 (Mar. 17, 1987)) (proposing amendments to rule 24f-2 relating to certain unit investment trusts).

⁵ 15 U.S.C. 80a-24(e).

⁶ 15 U.S.C. 80a-24(f).

⁷ Registration of an Indefinite Number of Investment Company Shares, Investment Company Act Rel. No. 9989 (Nov. 3, 1977) (42 FR 58400 (Nov. 9, 1977)).

⁸ Rule 24f-2(a)(1) (17 CFR 270.24f-2(a)(1)).

⁹ Rule 24f-2(b)(1) (17 CFR 270.24f-2(b)(1)).

¹⁰ Rule 24f-2(c) (17 CFR 270.24f-2(c)). The rule that governs the computation of fees for registering securities by post-effective amendment, rule 24e-2, allows a fund to take a credit for securities redeemed during the previous fiscal year. Thus, a fund that has had redemptions in excess of sales in one fiscal year can apply the unused redemptions to reduce registration fees that it would pay under rule 24e-2 in the next fiscal year (in effect, preserving the unused redemptions).

pursuant to these provisions can result in a fund facing significant adverse consequences.¹¹

The Improvement Act amended sections 24 (e) and (f) of the Investment Company Act, among other things, to create a new, simpler system for the registration of fund securities under the Securities Act.¹² Amended section 24(f) of the Investment Company Act, when effective, will provide that a fund will be deemed to have registered an indefinite amount of securities upon the effective date of its registration statement under the Securities Act.¹³ The fund then will pay a fee within 90 days after the end of each of its fiscal years based upon the sale price of the fund securities sold during that fiscal year (including securities issued pursuant to a dividend reinvestment plan ("DRIP securities")) reduced by (i) the aggregate redemption price of the securities redeemed during that year and (ii) the aggregate redemption price of the securities redeemed during any prior fiscal year ending on or after October 11, 1995 that were not used previously by the fund to reduce its registration fees. Section 24(f) will provide the exclusive means for registering fund securities.¹⁴

The Improvement Act also will replace the current provisions for late payment of registration fees with an interest payment requirement. A fund will not be deemed to have sold unregistered securities or lose the ability to net sales against redemptions solely because its registration fee was paid late. Instead, to compensate the U.S. Treasury for any delay in the receipt of

revenues from a late payment of registration fees, amended section 24(f) will require the fund to pay interest charges on late payments.¹⁵

The Commission is proposing amendments to several rules and forms under the Investment Company Act and the Securities Act to implement the Improvement Act's amendments to section 24. The Commission also is proposing to rescind two rules under the Investment Company Act relating to the registration of fund securities that will no longer be necessary when the amendments to section 24 become effective.

II. Discussion

A. Amendments to Rule 24f-2

Rule 24f-2 currently contains detailed technical provisions setting out when Securities Act registration fees must be paid, the calculation of registration fees, and the circumstances under which a fund may net sales against redemptions in calculating its fee. As a result of the amendments to section 24(f), many of these provisions can be eliminated and the rule can be simplified significantly.¹⁶

1. Form Filing Requirements

The rule, as proposed to be amended, generally would require a fund to file a Form 24F-2 within 90 days after the end of each of its fiscal years.¹⁷ The amended rule also would specify that any fund that pays the fee more than 90 days after the end of its fiscal year will be required to pay interest in the manner specified in amended section 24(f) and in Form 24F-2.

The Commission is proposing to eliminate the provision in current rule

24f-2 that a Form 24F-2 is deemed timely filed, regardless of when it reaches the Commission, if the fund establishes that it timely transmitted the Form to a third party that guaranteed delivery no later than the filing date.¹⁸ This provision was adopted in 1995 in response to a series of late filings made by certain funds that would have resulted in these funds losing the ability to net redemptions against sales without exemptive relief from the Commission.¹⁹ This provision appears inconsistent with one of the reasons for the interest payment requirement in amended section 24(f)—to compensate the U.S. Treasury for any delay in the timely receipt of revenue.²⁰

The Commission is proposing to eliminate the requirement in current rule 24f-2 that a fund's Form 24F-2 be accompanied by an opinion of counsel stating that the securities which Form 24F-2 "makes definite in number," were legally issued, fully paid, and non-assessable.²¹ This opinion requirement no longer seems necessary in light of amended section 24(f)'s providing for the registration of an indefinite number of securities in all cases. In addition, the relevant registration forms require funds to file an opinion of counsel to address the legality of the securities being registered.²²

Comment is requested on the general approach of the proposed amendments. Should any provisions that would be eliminated from the rule be retained? Comment also is requested whether the opinion requirement should be retained in order to provide additional assurance that fund securities are legally issued.

2. Fund Mergers and Reorganizations

Like the current rule, the amended rule would specify that the date on which a fund ceases operations would be deemed to be the end of the fund's fiscal year.²³ As under the current rule, a fund that ceases operations because it is merged into an operating fund would file a Form 24F-2 with respect to its final fiscal year. The acquiring fund would not assume the redemptions

¹¹ Under rule 24f-2, failure to pay the registration fee within 60 days after the end of the fund's fiscal year precludes the fund's netting sales against redemptions for purposes of fee calculations, resulting in a significantly higher registration fee. Failure to pay the fee within 180 days could result in the fund being deemed to have sold unregistered securities. These penalties were not designed to protect the interests of fund shareholders; rather, they reflected a mismatch of the fee payment structure of the Securities Act and the reality of fund operations. See *The Securities Investment Promotion Act of 1996: Hearing on S. 1815 Before the Senate Comm. on Banking, Housing, and Urban Affairs*, 104th Cong., 2d Sess. 39 (1996) (testimony of Arthur Levitt, Chairman, SEC).

¹² Section 203 of the Improvement Act, Pub. L. 104-290 (1996).

¹³ Section 24(f)(1), as amended. Amended section 24(f) becomes effective on the earlier of October 11, 1997 or the effective date of Commission rulemaking implementing amended section 24(f). See 15 U.S.C. 80a-24 note. For purposes of convenience, section 24, as it will be amended when section 203 of the Improvement Act becomes effective, is referred to in this Release as "amended section 24" or "section 24, as amended."

¹⁴ Section 203 of the Improvement Act will rescind the provisions of sections 24 (e) and (f) that allow for post-effective amendment and post-sale registration of securities. See *supra* notes 5-6 and accompanying text.

¹⁵ Section 24(f)(3), as amended. See also, H.R. Rep. No. 622, 104th Cong., 2d Sess. 44 (1996) [hereinafter "House Report"]. Payment of interest will not preclude the Commission from bringing an action to enforce the requirements of section 24(f). Section 24(f)(3), as amended.

¹⁶ For example, the current rule requires a fund to *elect* to register an unlimited number of securities. Rule 24f-2(a) (17 CFR 24f-2(a)). This provision can be eliminated because, under section 24(f) as amended, all funds will be deemed to have registered an indefinite number of securities upon the effective date of their Securities Act registration statement. Similarly, the rule's netting provision can be eliminated because amended section 24(f) includes a netting provision. Finally, because funds are required to file Form 24F-2 with the Commission electronically using the Commission's Electronic Data Gathering, Analysis, and Retrieval system, the amended rule would not contain any provisions that suggest that the Form can be filed on paper.

¹⁷ The current rule has a provision explaining how to calculate the relevant time periods under the rule. Rule 24f-2(e) (17 CFR 270.24f-2(e)). The amended rule would retain this provision, as well as the explanatory note that provides an example of how to determine the filing date. Proposed rule 24f-2(c).

¹⁸ Rule 24f-2(f) (17 CFR 24f-2(f)).

¹⁹ See Registration Fees for Certain Investment Companies, Investment Company Act Release No. 21332 (Sept. 1, 1995) (60 FR 47041 (Sept. 11, 1995)) ("1995 Adopting Release") at nn.7-10 and accompanying text.

²⁰ See *supra* note 15 and accompanying text.

²¹ Rule 24f-2(b)(1) (17 CFR 24f-2(b)(1)).

²² See, e.g., item 24(b)(10) of Form N-1A (requiring an opinion of counsel stating that the securities registered will, when sold, be legally issued, fully paid and non-assessable).

²³ Rule 24f-2(b)(3) (17 CFR 270.24f-2(b)(3)); proposed rule 24f-2(b).

("redemption credits") of the acquired fund to reduce its registration fees.

Rule 24f-2 provides two exceptions to this provision that would continue to be available under the amendment ("reorganization exceptions"). The first exception is a reorganization undertaken for the purpose of changing the state of incorporation or form of organization of a fund ("predecessor fund"), that satisfies the requirements of rule 414 of Regulation C under the Securities Act.²⁴ In such a reorganization, the fund that remains after the transaction ("successor fund"), may assume any remaining redemption credits of the predecessor fund. The other exception involves the merger of the predecessor fund into a newly-created series of a "series company" as defined in rule 18f-2 under the Investment Company Act.²⁵ In each case, the successor fund assumes the assets and liabilities of the predecessor fund, continues the predecessor fund's business, and each shareholder of the predecessor fund, following the transaction, owns the same *pro rata* interest in the same portfolio of securities as the shareholder owned before the transaction occurred. In both instances, therefore, the predecessor fund is not being acquired by an operating fund.

The proposed amendments would simplify the reorganization exceptions by deleting the references to rules 414 and 18f-2. The amended rule would permit the successor fund to assume the redemption credits of the predecessor fund if the successor fund (i) had no assets or liabilities, other than nominal assets or liabilities, and no operating history prior to the merger; and (ii) acquired all of the assets and assumed all of the liabilities and obligations of the predecessor fund.²⁶ Satisfying these conditions, which are derived from rule 414, demonstrates that the transaction

was effected solely to change the form of organization of the predecessor fund. Comment is requested whether the proposed amendments would simplify the rule or whether the terminology of the current rule should be retained.

The proposed amendments would clarify that the reorganization exceptions are not available in a transaction designed to result in the predecessor fund merging with a fund that was not a shell prior to the merger.²⁷ This clarification is intended to prevent redemption credits from being preserved in instances when the ultimate purpose of the transaction is to merge the predecessor fund into an operating fund.

B. Amendments to Form 24F-2

Form 24F-2 was adopted by the Commission in 1995 to provide a standard format for the annual registration fee filings required by rule 24f-2.²⁸ The Commission is proposing amendments to Form 24F-2 to reflect the changes made by the Improvement Act. Form 24F-2, as proposed to be amended, would consist of 8 Items and Instructions for completing and filing the Form.²⁹ The proposed Items include identifying information about the fund, a worksheet for calculating the registration fee, and provisions regarding paying the fee and any interest that may be due.

1. General Information (Proposed Items 1-4)

Like the current Form, the amended Form would require certain identifying information concerning the fund and the class or series of securities to which the filing relates.³⁰ Unlike the current Form, the amended Form would not require information about securities registered other than pursuant to rule 24f-2.³¹ This information is not directly

relevant to the calculation of the registration fee; rather the Items requiring this information were designed to assist funds in determining that all their securities were registered. The need to determine this information will be substantially reduced as funds sell shares that were previously registered. Comment is requested whether the Form should continue to require this information to assist fund compliance personnel in determining whether securities sold by the fund have been appropriately registered.

2. The Worksheet

The proposed worksheet in Form 24F-2 would be less complex than the one in the current Form, reflecting the simplified registration system of amended section 24(f). It would consist of eight line items.

a. Sales Information (Proposed Item 5(i)).

Section 24(f)(2), as amended, will require that a fund calculate its fee based *only* on the number of securities sold during the fiscal year pursuant to an indefinite registration of securities under section 24(f). In this way, section 24(f) will avoid imposing a fee on securities that were registered pursuant to section 24(e) prior to the effective date of the amendments to section 24(f) and on which a registration fee had already been paid.³²

Reflecting the statutory provision, proposed Item 5(i) of the worksheet would require the aggregate sale price of securities sold during the fiscal year pursuant to section 24(f). Proposed Instruction to the amended Form would remind funds to include in this Item DRIP securities, as required by amended section 24(f), but not to include previously registered shares.³³

b. *Redemption Information (Proposed Items 5(ii)—5(iv)).* Section 24(f)(2), as amended, will provide that in calculating its registration fee a fund may reduce the amount of securities sold during the fiscal year by (i) the aggregate price of securities redeemed during the fiscal year, and (ii) the aggregate price of the securities redeemed during any prior fiscal year ending on or after October 11, 1995 that were not used previously to reduce fees. In this way, amended section 24(f) will

²⁴ Rule 24f-2(b)(3)(i) (17 CFR 270.24f-2(b)(3)(i)); rule 414 (17 CFR 230.414). Rule 414 generally provides that the registration statement of a predecessor company will be deemed to be the registration statement of the successor company when the purpose of the reorganization is to change the company's domicile or form of organization, provided certain conditions are satisfied.

²⁵ Rule 24f-2(b)(3)(ii) (17 CFR 270.24f-2(b)(3)(ii)); rule 18f-2 (17 CFR 270.18f-2). A series company is a fund that issues two or more series of securities, each of which is preferred over all other series with respect to a specific portfolio of assets. A merger into a series of another fund generally would not satisfy the requirements of rule 414 because the successor series would be part of a separately registered series company and would not necessarily adopt the predecessor fund's registration statement as its own, as required by rule 414.

²⁶ Proposed rule 24f-2(b). The proposed amendments would make clear that the successor fund may be a series of a series company.

²⁷ Proposed rule 24f-2(b)(3).

²⁸ See 1995 Adopting Release, *supra* note 19, at nn. 33-43 and accompanying text.

²⁹ Reflecting current practice, the proposed amendments would require a fund choosing to calculate registration fees on a class-by-class or series-by-series basis to make one filing, consisting of a separate Form 24F-2 for each class or series. See Instruction A.1 to Form 24F-2 as proposed to be amended.

³⁰ Items 1, 2, 3 and 4 of Form 24F-2 as proposed to be amended. Proposed Item 4, which requires the fund to provide the date of its fiscal year-end also would require the fund to indicate whether the Form was being filed late. This requirement is designed to facilitate Commission processing of a late filing that would require the payment of interest. Proposed Item 4 also would include a box to be checked if the filing is the last time the fund will be filing the Form (for example, if the fund is ceasing operations). This Item would replace current Item 6, which requires a fund to indicate if it is terminating its rule 24f-2 declaration.

³¹ Items 7, 8 and 9 of Form 24F-2.

³² As discussed above, after the effective date of the amendments to section 24(f), all funds will be deemed to have registered an indefinite number of securities and no fund will have reason to register a definite number of securities and pay a registration fee on the securities at the time of their registration. In addition, with the repeal of section 24(e)(1), funds may not register additional securities on a post-effective amendment.

³³ Instruction C.4 to Form 24F-2, as proposed to be amended.

permit funds to net redemptions during the fiscal year or earlier fiscal years against sales without having to "preserve" those redemption credits through filing periodic post-effective amendments pursuant to section 24(e).³⁴

Reflecting the statutory provision, proposed Item 5(ii) would require the aggregate price of securities redeemed or repurchased during the fiscal year, and proposed Item 5(iii) would require the aggregate price of securities redeemed or repurchased during any *prior* fiscal year ending no earlier than October 11, 1995.³⁵ The total amount of available redemption credits would be set forth in proposed Item 5(iv).

c. Registration Fee Calculation (Proposed Items 5(v)–5(viii)).

In order to determine the fund's net aggregate sale price of securities for purposes of calculating the registration fee, the fund's aggregate redemptions (proposed Item 5(iv)) would be subtracted from the fund's aggregate sales (proposed Item 5(i)). If sales exceeded redemptions, the result would be set forth in proposed Item 5(v). This amount would be used to calculate the fund's registration fee.

If the fund's aggregate redemptions exceeded the fund's aggregate sales, the amount would be set forth in proposed Item 5(vi). In this case, the fund would not be required to pay a registration fee. As provided by amended section 24(f), these redemption credits could be used by the fund in future years to reduce registration fees.

Proposed Item 5(vii) would require the fund to set forth the multiplier for determining the registration fee.³⁶ The

registration fee due would be set forth in proposed Item 5(viii).³⁷

3. Interest and Other Payment Information (Proposed Items 6–8)

Proposed Item 6 would be completed only by funds that filed the Form late. It would require the fund to report the amount of interest due (if any).³⁸ The total of the registration fee and interest payment would be reported in proposed Item 7. Proposed Item 8 would contain information about when and how the fund's payment was sent to the Commission's lockbox depository.

4. Request for Comment

Comment is requested on the proposed amendments to Form 24F–2. Will the amended Form assist funds in calculating their registration fees? Should any additional information be required or is any of the information proposed to be set forth on the Form unnecessary? Do the proposed Instructions to the amended Form adequately address the procedures for completing and filing the Form?

C. Conforming Amendments

1. Rule Rescissions

The Improvement Act will, when effective, eliminate the provisions of the Investment Company Act that relate to the registration of fund securities by post-effective amendment.³⁹ As a result of those changes, rule 24e–2, the rule that addresses the computation of fees on securities registered by post-effective amendment, will be extraneous, and the Commission is proposing that it be rescinded. Similarly, because the Improvement Act will eliminate the provision of section 24(f) of the Investment Company Act that allows for post-sale registration, the Commission is proposing to rescind rule 24f–1, which details the procedures for post-sale registration.

2. Conforming Amendments to Forms and Rules

The forms used by funds to register securities under the Securities Act contain provisions on their cover pages and related instructions concerning the calculation and payment of registration fees and the registration of an indefinite number of securities under current rule

24f–2.⁴⁰ The Commission is proposing to modify these forms to delete these provisions or to conform them to amended section 24(f).

The Commission also is proposing a conforming amendment to rule 485 under the Securities Act, the rule that permits post-effective amendments to certain fund registration statements to become effective automatically. Currently, rule 485 permits a fund's registration statement filed to increase the number of securities registered or to register an indefinite number of securities to become effective immediately.⁴¹ These provisions would be eliminated. In addition, the Commission is proposing to amend certain rules relating to registration fee payments to reflect amended section 24.⁴² Finally, cross-references to section 24(e)(3) of the Investment Company Act in rule 24e–1 under the Investment Company Act would be changed to reflect that that section will become section 24(e).

D. General Request for Comment

Any interested persons wishing to submit written comments on the proposed rule and form changes that are the subject of this Release, to suggest additional changes (including changes to provisions of the rules that the Commission is not proposing to amend), or to submit comments on other matters that might have an effect on the proposals described above, are requested to do so. Commenters suggesting alternative approaches are encouraged to submit proposed rule text.

III. Cost/Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The Commission notes that the proposed amendments implement the changes mandated by the Improvement Act to the system for registering fund securities under the Securities Act. The proposed amendments reflect the requirements of amended section 24 of the Investment Company Act and do not impose any additional requirements. The proposed amendments to Form 24F–2 should assist funds in calculating their registration fees and interest, if any, under amended section 24(f). Based on its experience with Form 24F–2, the Commission believes that the benefits to funds and the Commission of having a standardized format for registration fee

³⁴ Had Congress not included a "cut-off" date (i.e., fiscal years ended on or after October 11, 1995), funds arguably could have used as credits securities redeemed before rule 24f–2 was adopted in 1977. Since redemptions occurring before October 11, 1995 would have to have been "preserved" by registering securities pursuant to rule 24e–2 before the effective date of the amendments, and since such newly registered securities would not have been registered pursuant to an indefinite registration pursuant to amended section 24(f), the provision should not result in the loss of any redemption credits of any fund that is entitled to use them to reduce registration fees. See House Report, *supra* note 15, at 44. See also *supra* note 10.

³⁵ In each case, proposed Instructions C.5 and C.6 to the amended Form would remind funds not to include redemptions that were previously used to reduce registration fees payable to the Commission.

³⁶ The multiplier for calculation of the registration fee is determined by the Commission in accordance with section 6(b) of the Securities Act. As of October 1, 1996, the multiplier was 1/3300. This multiplier is subject to change from time to time, without notice, by act of Congress. The Commission staff has found that most mistakes in Form 24F–2 filings arise from the use of the wrong multiplier. Having the fund set forth the multiplier it used often enables the staff to quickly determine and notify the fund of the source of the error. Proposed Instruction C.3 to the Form would remind funds to

determine the current fee rate prior to filing. Changes in the multiplier are generally posted on the Commission's web site.

³⁷ A fund that showed net redemptions in proposed Item 5(vi) would enter "0" in Item 5(viii).

³⁸ The manner in which interest should be calculated would be set forth in proposed Instruction D.

³⁹ See 15 USC 80a–24(e) (1) and (2).

⁴⁰ Form S–6, Form N–1A, Form N–3, Form N–4, and Form N–14.

⁴¹ Rule 485(b) (i) and (ii) [17 CFR 230.485(b) (i) and (ii)].

⁴² Rule 3a of Informal and Other Procedures and rule 13 of Regulation S–T.

filings and the guidance provided by the Form should outweigh any burdens associated with filing the Form. Form 24F-2 has made it easier for funds to calculate registration fees and reduced errors in fee calculations. The Form as proposed to be amended would continue these benefits. The Commission does not believe that the amended Form would impose any significant one-time or ongoing costs on funds. The proposed amendments to funds' registration forms also are designed to reflect amended section 24 and would not require funds to obtain or provide any information that is not currently required by these forms.

The Commission requests comment on any of these matters.

IV. Paperwork Reduction Act

Certain provisions of the proposed amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995,⁴³ and the Commission has submitted them to the Office of Management and Budget ("OMB") for review in accordance with 44 USC 3507(d) and 5 CFR 1320.11. The title for the collection of information is "Proposed Amendments to Forms 24F-2, N-1A, N-3, N-4, N-14 and S-6." The Forms contain currently approved collections of information under OMB control numbers 3235-0456, 3235-0307, 3235-0316, 3235-0318, 3235-0336 and 3235-0184, respectively. The proposed amendments to these collections of information are necessary to implement the changes to section 24 of the Investment Company Act made by the Improvement Act. An agency may not sponsor, conduct, or require response to an information collection unless a currently valid OMB control number is displayed.

Form 24F-2 provides a standardized format for funds' annual registration fee filings and assists funds in calculating the fees. Form N-1A is used by open-end management investment companies to register with the Commission as investment companies under the Investment Company Act and to register their offerings of securities under the Securities Act. Form N-3 is used by insurance company separate accounts organized as management investment companies to register with the Commission as investment companies under the Investment Company Act and to register their offerings of securities under the Securities Act. Form N-4 is used by insurance company separate accounts organized as unit investment trusts ("UITs") to register with the

Commission as investment companies under the Investment Company Act and to register their offerings of securities under the Securities Act. Form S-6 is used by UITs to register their securities under the Securities Act (UITs register as investment companies on a separate Form N-8B-2). Form N-14 is used by investment companies to register under the Securities Act securities issued in business combination transactions. The primary purpose of the registration process and registration forms is to provide disclosure of financial and other information to investors and potential investors for the purpose of evaluating an investment in a security.

Form 24F-2 is required to be filed annually. Forms N-1A, N-3, and N-4 are filed annually and updated on occasion. Form N-14 is filed on occasion. Form S-6 is filed annually. It is estimated that approximately 6681 funds file Form 24F-2, 7500 funds file Form N-1A, 53 funds file Form N-3, 288 funds file Form N-4, 95 funds file Form N-14, and 3263 funds file Form S-6. The average annual burden per respondent for Form 24F-2 is estimated to be 1.9 hours, for Form N-1A, 213 hours, for Form N-3, 512.3 hours, for Form N-4, 138.35 hours, for Form N-14, 620 hours, and for Form S-6, 35 hours. The total annual burden for all respondents for Form 24F-2 is estimated to be 12,694 hours, for Form N-1A, 990,000 hours, for Form N-3, 27,499 hours, for Form N-4, 40,562 hours, for Form N-14, 58,900 hours, and for Form S-6, 114,205 hours. The proposed amendments would reduce the annual burden per respondent for Form 24F-2 from 1.9 hours to 1 hour. The proposed amendments would not result in any change in the burden hours for the registration forms.

The information collection requirements imposed by Form 24F-2 and the registration forms are mandatory. Responses to the collection of information will not be kept confidential.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to (i) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information; (iii) enhance the quality, utility, and clarity of the information to be collected; (iv) minimize the burden of the collections of information on those who are to respond, including through the use of automated collection

techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6-9, Washington, DC 20549 with reference to File No. S7-19-97. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full affect if OMB receives it within 30 days of publication.

V. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with 5 U.S.C. 603 regarding the proposed rule and form amendments. The IRFA states that the proposed amendments to rule 24F-2 and Form 24F-2 would implement the provisions of the Improvement Act governing registration of fund securities under the Securities Act. The IRFA further states that the proposed conforming amendments to rules and forms would conform the relevant provisions of these rules and forms to the requirements of amended section 24 of the Investment Company Act. The IRFA indicates that the proposed amendments are designed to make it easier for funds to comply with the new statutory provisions and provide guidance on calculating registration fees on fund securities.

The IRFA sets forth the statutory authority for the proposed amendments. The IRFA also discusses the effect of the proposed amendments on funds that are small entities. For purposes of the proposed amendments, small entities are funds with assets of \$50 million or less at the end of their most recent fiscal year. Based on a review of data filed by funds with the Commission, it is estimated that approximately 948 funds may be considered small entities. The IRFA states that the proposed amendments would assist small entities in complying with the new statutory requirements.

The IRFA states that the proposed amendments would not impose any new reporting, recordkeeping or other compliance requirements, and that the Commission believes that there are no

⁴³ 44 USC 3501.

rules that duplicate, overlap or conflict with the proposed amendments.

The IRFA discusses the various alternatives considered by the Commission in connection with the proposed amendments that might minimize the effect on small entities, including: (a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule, or any part of the rule, for small entities. Performance, rather than design, standards are incorporated in amended section 24(f) of the Act, and are therefore incorporated into the proposed rule and form amendments, to the extent that (i) registration fees on fund shares are based on sales less redemptions, and (ii) a fund is required to pay interest if the registration fee is paid late.

The Commission believes that it would be inconsistent with the purposes of amended section 24 of the Investment Company Act to exempt small entities from the proposed amendments. The Commission considered not having a standardized form to accompany the funds' annual registration fee filings. Based on the Commission's and funds' experience prior to the adoption of Form 24F-2, and the comments received when Form 24F-2 was proposed, however, the Commission believes that Form 24F-2 has been beneficial. Form 24F-2 has made it easier for funds to calculate registration fees and reduced errors in fee calculations.

Different compliance or reporting requirements for small entities are not necessary because the proposed amendments do not establish any new reporting, recordkeeping or compliance requirements. The Commission has determined that it is not feasible to further clarify, consolidate or simplify the proposed amendments for small entities.

The IRFA includes information concerning the solicitation of comments with respect to the IRFA. Cost-benefit information reflected in the "Cost-Benefit Analysis" section of this Release also is reflected in the IRFA. A copy of the IRFA may be obtained by contacting Robin S. Gross, Securities and Exchange Commission, 450 5th Street, NW., Mail Stop 10-2, Washington, DC. 20549.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission also requests

information regarding the potential impact of the proposed amendments on an annual basis. Commenters should provide empirical data to support their views.

VI. Statutory Authority

The Commission is proposing to rescind rules 24e-2 and 24f-1, and amend rules 24e-1 and 24f-2 and Form 24F-2, pursuant to the authority set forth in sections 24 and 38(a) of the Investment Company Act (15 U.S.C. 80a-24, -37(a)). The Commission is proposing to amend rule 485 pursuant to the authority set forth in sections 6, 7, 8, 10 and 19(a) of the Securities Act (15 U.S.C. 77f, 77h, 77j, 77s(a)) and section 38 of the Investment Company Act. The authority citations for the proposed amendments to Forms N-1A, N-3, N-4, N-14 and S-6, and rule 13 of Regulation S-T and rule 3a of Informal and Other Procedures precede the text of the amendments.

Text of Proposed Rule and Form Amendments

List of Subjects

17 CFR Part 202

Administrative practice and procedure, Securities.

17 CFR Parts 230, 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 202—INFORMAL AND OTHER PROCEDURES

1. The authority citation for part 202 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 77t, 78d-1, 78u, 78w, 78l(d), 79r, 79t, 77sss, 77uuu, 80a-37, 80a-41, 80b-9, and 80b-11, unless otherwise noted.

* * * * *

§ 202.3a [Amended]

2. In § 202.3a, the seventh sentence of the introductory text is amended by adding the phrase " , including fees paid pursuant to section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f))" after the phrase

"Section 6(b) of the Securities Act of 1933".

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78l, 78m, 78n, 78o, 78w, 78l(d), 78t, 80a-8, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

§ 230.485 [Amended]

4. Section 230.485 is amended by removing paragraphs (b)(1) (i) and (ii) and redesignating paragraphs (b)(1) (iii) through (ix) as paragraphs (b)(1) (i) through (vii), revising the reference to "paragraph (b)(1)(ix)" in the introductory text of paragraph (b)(2) to read "paragraph (b)(1)(vii)" and the two references to "paragraph (b)(1)(v)" in paragraph (d)(2)(ii)(B) and the undesignated paragraph that follows to read "paragraph (b)(1)(iii)".

PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

5. The authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78l(d), 79t(a), 80a-8, 80a-29, 80a-30 and 80a-37.

§ 232.13 [Amended]

6. Section 232.13 is amended in paragraph (a)(1)(iii) by adding after the words "Securities Act filings" the phrase " , including filings under section 24(f) of the Investment Company Act (15 U.S.C. 80a-24(f))".

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

7. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78l(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a-8, 80a-29, 80a-30 and 80a-37, unless otherwise noted.

* * * * *

§ 239.16 [Form S-6 Amended]

8. Form S-6 (referenced in § 239.16) is amended on the cover page by removing the words "and amount" in Item E, removing Items F and G, and redesignating Item H as Item F.

Note: Form S-6 does not and the amendment will not appear in the Code of Federal Regulations.

Note: Form N-14 does not and the amendments will not appear in the Code of Federal Regulations.

§ 239.23 [Form N-14 Amended]

9. Form N-14 (referenced in § 239.23) is amended on the cover page by revising the Instruction to the table "Calculation of Registration Fee under the Securities Act of 1933" to read as follows:

Form N-14

* * * * *

Calculation of Registration Fee under the Securities Act of 1933

* * * * *

Instruction

Registrants relying on section 24(f) of the Investment Company Act, which permits registration of an indefinite number of securities, need not include the Securities Act registration fee table, but must provide the "Title of Securities Being Registered" and state that no filing fee is due because of reliance on section 24(f).

* * * * *

§ 239.23 [Form N-14 amended]

10. Form N-14 (referenced in § 239.23) is amended by revising General Instruction B to read as follows:

Form N-14

* * * * *

General Instructions

* * * * *

B. Registration Fee

Section 6(b) of the 1933 Act and Rule 457 (17 CFR 230.457) thereunder set forth the fee requirements under the 1933 Act. Registrants relying on section 24(f) of the 1940 Act, which permits registration of an indefinite number of shares, are directed to rule 24f-2 under the 1940 Act (17 CFR 270.24f-2) regarding payment of the registration fee. If, contemporaneous with a filing on Form N-14, an open-end management company is offering its securities to the public by means of a current prospectus under an effective registration statement, the prospectus included in a registration statement filed on Form N-14 may be used, under Rule 429(a) (17 CFR 230.429(a)), in connection with the securities covered by the earlier registration statement.

* * * * *

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

11. The authority citation for part 270 is amended by adding the following citation to read as follows:

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

* * * * *

Section 270.24f-2 also issued under 15 U.S.C. 80a-24(f)(4).

§ 270.24e-1 [Amended]

12. Section 270.24e-1 is amended by removing the reference "24(e)(3)" each time it appears and adding the reference "24(e)".

§ 270.24e-2 [Removed]

13. Section 270.24e-2 is removed.

§ 270.24f-1 [Removed]

14. Section 270.24f-1 is removed.

15. Section 270.24f-2 is revised to read as follows:

§ 270.24f-2. Registration under the Securities Act of 1933 of certain investment company securities.

(a) *General.* Any face-amount certificate company, open-end management company or unit investment trust ("issuer") that is deemed to have registered an indefinite amount of securities pursuant to section 24(f) of the Act (15 U.S.C. 80a-24(f)) shall, not later than 90 days after the end of any fiscal year during which it has publicly offered such securities, file Form 24F-2 (17 CFR 274.24) with the Commission. Form 24F-2 shall be prepared in accordance with the requirements of that Form, and shall be accompanied by the payment of a registration fee with respect to the securities sold during the fiscal year in reliance upon registration pursuant to section 24(f) of the Act calculated in the manner specified in section 24(f) of the Act and such Form. An issuer that pays the registration fee more than 90 days after the end of its fiscal year shall pay interest in the manner specified in section 24(f) of the Act and in Form 24F-2.

(b) *Issuer ceasing operations; mergers and other transactions.* For purposes of this section, if an issuer ceases operations, the date the issuer ceases operations shall be deemed to be the end of its fiscal year. In the case of a liquidation, merger, or sale of all or substantially all of the assets ("merger") of the issuer, the issuer shall be deemed to have ceased operations for purposes of this section on the date the merger is consummated; *provided, however*, that in the case of a merger of an issuer or a series of an issuer ("Predecessor Issuer") with another issuer or a series of that issuer ("Successor Issuer"), the Predecessor Issuer shall not be deemed to have ceased operations and the Successor Issuer shall assume the obligations, fees, and redemption credits of the Predecessor Issuer incurred pursuant to section 24(f) of the Act and § 270.24e-2 (as in effect prior to the effective date of its rescission) if the Successor Issuer:

(1) Had no assets or liabilities, other than nominal assets or liabilities, and no

operating history immediately prior to the merger;

(2) Acquired all of the assets and assumed all of the liabilities and obligations of the Predecessor Issuer; and

(3) The merger is not designed to result in the Predecessor Issuer merging with, or substantially all of its assets being acquired by, an issuer (or a series of that issuer) that would not meet the conditions of paragraph (b)(1) of this section.

(c) *Counting days.* To determine the date on which Form 24F-2 must be filed with the Commission under paragraph (a) of this section, the first day of the 90 day period shall be the first calendar day of the fiscal year following the fiscal year for which the Form is to be filed. If the last day of the 90 day period falls on a Saturday, Sunday or Federal holiday, the period shall end on the first business day thereafter.

Note to paragraph (c): For example, a Form 24F-2 for a fiscal year ending on June 30 must be filed no later than September 28. If September 28 falls on a Saturday or Sunday, the Form must be filed on the following Monday.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

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

16. The authority citation for part 274 continues 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, and 80a-29, unless otherwise noted.

Note: Form N-1A does not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.15A and 274.11A [Form N-1A Amended]

17. Form N-1A (referenced in § 239.15A and § 274.11A) is amended on the cover page by removing the words "Calculation of Registration Fee Under the Securities Act of 1933" and the accompanying chart and note, and adding the following:

"Title of Securities Being Registered

Omit from the facing sheet reference to the other Act if the Registration Statement or amendment is filed under only one of the Acts. Include the "Approximate Date of Proposed Public Offering" and "Title of Securities Being Registered" only where securities are being registered under the Securities Act of 1933."

§§ 239.15A and 274.11A [Form N-1A Amended]

18. Form N-1A (referenced in § 239.15A and § 274.11A) is amended by

revising General Instruction B to read as follows:

Form N-1A

* * * * *

General Instructions

* * * * *

B. Registration Fees

Registration fees should not be paid when filing this form. See section 24(f) of the Investment Company Act and rule 24f-2 thereunder.

* * * * *

§§ 239.15A and 274.11A [Form N-1A Amended]

19. Form N-1A (referenced in § 239.15A and § 274.11A) is amended by revising General Instruction F.2 to read as follows:

Note: Form N-1A does not and the amendments will not appear in the Code of Federal Regulations.

Form N-1A

* * * * *

General Instructions

* * * * *

F. Documents Comprising Registration Statement or Amendment

* * * * *

2. A registration statement or an amendment thereto which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction F.

* * * * *

§§ 239.15A and 274.11A [Form N-1A Amended]

20. Form N-1A (referenced in § 239.15A and § 274.11A) is amended by removing General Instruction F.3 and redesignating General Instruction F.4 as General Instruction F.3.

Note: Form N-1A does not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.17a and 274.11b [Form N-3 Amended]

21. Form N-3 (referenced in § 239.17a and § 274.11b) is amended on the cover page by removing the words "Calculation of Registration Fee Under the Securities Act of 1933" and the accompanying chart and note, and adding the following:

"Title of Securities Being Registered

Omit from the facing sheet reference to the other Act if the Registration Statement or amendment is filed under only one of the Acts. Include the "Approximate Date of Proposed Public Offering" and "Title of Securities Being Registered" only where securities are being registered under the Securities Act of 1933.

Note: Form N-3 does not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.17a and 274.11b [Form N-3 Amended]

22. Form N-3 (referenced in § 239.17a and § 274.11b) is amended by revising General Instruction B to read as follows:

Note: Form N-3 does not and the amendments will not appear in the Code of Federal Regulations.

Form N-3

* * * * *

General Instructions

* * * * *

B. Registration Fees

Registration fees should not be paid when filing this form. See section 24(f) of the Investment Company Act and rule 24f-2 thereunder.

* * * * *

§§ 239.17a and 274.11b [Form N-3 Amended]

23. Form N-3 (referenced in § 239.17a and § 274.11b) is amended by revising General Instruction H.2 to read as follows:

Note: Form N-3 does not and the amendments will not appear in the Code of Federal Regulations.

Form N-3

* * * * *

General Instructions

* * * * *

H. Documents Comprising Registration Statement or Amendment

* * * * *

2. A registration statement or an amendment to it which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction H.

* * * * *

§§ 239.17a and 274.11b [Form N-3 Amended]

24. Form N-3 (referenced in § 239.17a and § 274.11b) is amended by removing General Instruction H.3 and redesignating General Instructions H.4 and H.5 as General Instructions H.3 and H.4.

Note: Form N-3 does not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.17b and 274.11c [Form N-4 Amended]

25. Form N-4 (referenced in § 239.17b and § 274.11c) is amended on the cover page by removing the words "Calculation of Registration Fee Under the Securities Act of 1933" and the accompanying chart and note, and adding the following:

"Title of Securities Being Registered

Omit from the facing sheet reference to the other Act if the Registration Statement or amendment is filed under only one of the Acts. Include the "Approximate Date of Proposed Public Offering" and "Title of Securities Being Registered" only where securities are being registered under the Securities Act of 1933."

Note: Form N-4 does not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.17b and 274.11c [Form N-4 Amended]

26. Form N-4 (referenced in § 239.17b and § 274.11c) is amended by revising General Instruction B to read as follows:

Note: Form N-4 does not and the amendments will not appear in the Code of Federal Regulations.

Form N-4

* * * * *

General Instructions

* * * * *

B. Registration Fees

Registration fees should not be paid when filing this form. See section 24(f) of the Investment Company Act and rule 24f-2 thereunder.

* * * * *

§§ 239.17b and 274.11c [Form N-4 Amended]

27. Form N-4 (referenced in § 239.17b and § 274.11c) is amended by revising General Instruction H.2 to read as follows:

Note: Form N-4 does not and the amendments will not appear in the Code of Federal Regulations.

Form N-4

* * * * *

General Instructions

* * * * *

H. Documents Comprising Registration Statement or Amendment

* * * * *

2. A registration statement or an amendment to it which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction H.

* * * * *

§§ 239.17b and 274.11c [Form N-4 Amended]

28. Form N-4 (referenced in § 239.17b and § 274.11c) is amended by removing General Instruction H.3 and redesignating General Instructions H.4 and H.5 as General Instructions H.3 and H.4.

29. Section 274.24 and Form 24F-2 are revised to read as follows:

§ 274.24 Form 24F-2, annual notice of securities sold pursuant to registration of certain investment company securities.

Form 24F-2 shall be used as the annual report filed by face amount certificate companies, open-end management companies, and unit investment trusts pursuant to § 270.24f-2 of this chapter for reporting securities sold during the fiscal year.

Note: Form 24F-2 does not and the amendments will not appear in the Code of Federal Regulations. A copy of Form 24F-2 as proposed to be revised is attached as Appendix I to this document.

Dated: July 14, 1997.

By the Commission.

Margaret H. McFarland

Deputy Secretary.

BILLING CODE 8010-01-U

APPENDIX I

OMB APPROVAL
OMB Number: 3235-0456
Expires:
Estimated average burden
hours per response: 1

U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 24F-2
Annual Filing under Rule 24f-2
of the Investment Company Act of 1940

Read instructions at end of Form before preparing Form.
Please print or type.

1. Name and address of issuer:

2. The name of each series or class of securities for which this Form is filed (leave this item blank if the Form is being filed for all series and classes of securities of the issuer):

3. Investment Company Act File Number: _____

Securities Act File Number: _____

4(a). Last day of fiscal year for which this Form is filed: _____

4(b). ☐ Check box if this Form is being filed late (*i.e.*, more than 90 days after the end of the issuer's fiscal year).

Note: If the Form is being filed more than 90 days after the end of the issuer's fiscal year, interest must be paid on the registration fee due.

4(c). ☐ Check box if this is the last time the issuer will be filing this Form.

5. Calculation of registration fee:

- (i) Aggregate sale price of securities sold during the fiscal year pursuant to section 24(f): \$ _____
- (ii) Aggregate price of securities redeemed or repurchased during the fiscal year: \$ _____
- (iii) Aggregate price of securities redeemed or repurchased during any *prior* fiscal year ending no earlier than October 11, 1995 that were not previously used to reduce registration fees payable to the Commission: \$ _____
- (iv) Total available redemption credits [add Items 5(ii) and 5(iii)]: --\$ _____
- (v) Net sales -- if Item 5(i) is greater than Item 5(iv) [subtract Item 5(iv) from Item 5(i)]: \$ _____
- (vi) Redemption credits available for use in future years -- if Item 5(i) is less than Item 5(iv) [subtract Item 5(iv) from Item 5(i)]: \$ () _____
- (vii) Multiplier for determining registration fee (See Instruction C.8): x _____
- (viii) Registration fee due [multiply Item 5(v) by Item 5(vii)] (enter "0" if no fee is due): = \$ _____

6. Interest due -- if this Form is being filed more than 90 days after the end of the issuer's fiscal year (see Instruction D):

+ \$ _____

7. Total of the amount of the registration fee due plus any interest due [Item 5(vii) plus Item 6]:

= \$ _____

8. Date the registration fee and any interest payment was sent to the Commission's lockbox depository: _____

Account Number: _____

Method of Delivery:

☐ Wire Transfer☐ Mail or other means

SIGNATURES

This Form has been signed below by the following persons on behalf of the issuer and in the capacities and on the dates indicated.

By (Signature and Title)* _____

Date _____

* Please print the name and title of the signing officer below the signature.

Form 24F-2**Annual Filing Under Rule 24f-2 of the Investment Company Act of 1940***Instructions***A. General**

1. This Form should be used by an open-end management investment company, face amount certificate company, or unit investment trust ("issuer") for annual notices required by rule 24f-2 under the Investment Company Act of 1940 [15 U.S.C. 80a *et seq.*] ("Investment Company Act"). If the issuer has registered more than one class or series of securities on the same registration statement under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] ("Securities Act"), the issuer may file a single Form 24F-2 for those classes or series that have the same fiscal year end. An issuer choosing to calculate registration fees on a class-by-class or series-by-series basis should make a single filing consisting of a separate Form 24F-2 for each class or series.

2. This Form must be filed within 90 days after the end of the issuer's fiscal year. See Instruction B.4.

3. Pursuant to rule 101(a)(1)(i) of Regulation S-T [17 CFR 232.101(a)(1)(i)] this Form must be submitted in electronic format using Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. Consult the EDGAR Filer Manual and Appendices for instructions on how to properly construct the submission header for an electronic 24F-2 EDGAR filing.

4. This Form must be accompanied by the appropriate registration fee. If the Form is being filed late, interest must be paid. See Instruction D.

5. This Form will be deemed filed with the Commission on the date on which it is received by the Commission. The Commission will not accept for filing any Form accompanied by insufficient payment of the registration fee. A Form accompanied by insufficient payment of the registration fee will be returned to the issuer for proper payment and will not be deemed filed until receipt by the Commission of proper payment of the registration fee. No part of the registration fee is refundable. Issuers should refer to rule 0-8 under the Investment Company Act [17 CFR 270.0-8], rule 3a of the Commission's Rules of Informal and Other Procedures [17 CFR 202.3a], and rule 13(c) under Regulation S-T [17 CFR 232.13(c)] for instructions on payment of fees to the Commission.

B. Identifying Information

1. Item 1—Provide the name of the issuer as it appears on the cover of the issuer's most recent Securities Act registration statement or post-effective amendment.

2. Item 2—If the Form is being filed for all classes and series of securities of the issuer, Item 2 may be left blank.

3. Item 3—The Investment Company Act file number should be the number assigned to the issuer's registration statement filed under the Investment Company Act (beginning with "811-"). The Securities Act file number in Item 3 is the number of the registrant's most recent Securities Act

registration statement (beginning with "2-", "33-" or "333-").

4. Item 4(a)—In the case of an issuer that ceases operations, the date it ceases operations is deemed the last day of its fiscal year for purposes of section 24(f) of the Investment Company Act.

5. Item 4(b)—Check the box if the Form is filed late. If the issuer files the Form late, the issuer is required under section 24(f) to pay interest on unpaid amounts at the average investment rate for Treasury and tax loan accounts. See Instruction D.

6. Item 4(c)—Check the box if this is the last time the issuer will be filing Form 24F-2 (i.e., if the issuer has discontinued operations).

C. Computation of Registration Fee

1. Item 5 is a work sheet for calculating the registration fee due. An issuer must aggregate prices within each class or series for which the Form is being filed. If the issuer charges a front-end sales load on its securities, the aggregate sale price must include the sales load.

2. Special Rule for Separate Accounts—The sale price of securities sold to an unmanaged separate account that offers interests that are registered under the Securities Act and on which a registration fee has been or will be paid may be excluded from the sale price of securities reported in Item 5(i). If the issuer chooses to exclude the sale price of these securities from Item 5(i), the issuer may not use securities redeemed or repurchased from those unmanaged separate accounts for purposes of determining the redemption or repurchase price of securities in Items 5(ii) and 5(iii).

3. EDGAR—Report responses for Item 5 under the following EDGAR header-tags:

Item 5(i)—<SALE-PROCEEDS>
Item 5(iv)—<REDEEMED-VALUE>
Item 5(viii)—<FEE-PAID>

The <SALE-PROCEEDS> and <REDEEMED-VALUE> tags are located immediately after the <SHARES> tag in the 24F-2 submission header.

4. Item 5(i)—Report the total sale price of securities sold during the fiscal year in reliance upon registration under section 24(f). Include securities issued pursuant to dividend reinvestment plans ("DRIP shares") whether or not they are required to be registered under the Securities Act. Do not include the sale price of securities, if any, which were registered under the Securities Act other than pursuant to section 24(f), such as securities registered by post-effective amendment pursuant to rule 24e-2 under the Investment Company Act as in effect before [effective date of rescission of rule 24e-2]. Example: An issuer sold 1,000,000 shares, and 250,000 shares had previously been registered pursuant to rule 24e-2. Item 5(i) should show the aggregate sale price of 750,000 shares.

5. Item 5(ii)—Report the aggregate redemption or repurchase price of securities redeemed or repurchased during the fiscal year. Do not include securities that have been redeemed or repurchased and previously applied as a reduction to registration fees pursuant to rule 24e-2 as in effect before [effective date of rescission of rule 24e-2].

Example: An issuer with an August 30, 1997 fiscal year end registered shares pursuant to rule 24e-2 in September 1997. The issuer applied securities redeemed during its 1997 fiscal year to reduce its registration fees payable under rule 24e-2. The redemption price of these securities should not be included in Item 5(ii).

6. Item 5(iii)—Report the aggregate redemption or repurchase price of securities redeemed or repurchased during any prior fiscal year ending no earlier than October 11, 1995, that were not used previously to reduce registration fees payable to the Commission. Do not include securities that have been redeemed or repurchased and previously applied as a reduction to registration fees pursuant to rule 24e-2 as in effect before [effective date of rescission of rule 24e-2]. See the Example to Item 5(ii).

7. Items 5(iv) through 5(vi)—Report the sum of Items 5(ii) and 5(iii) in Item 5(iv). Subtract Item 5(iv) from Item 5(i). If Item 5(iv) is less than Item 5(i), report the result in Item 5(v) (net sales). If Item 5(iv) is greater than Item 5(i), report the resulting negative number in parentheses in Item 5(vi) (net redemptions or repurchases). The amount of redemptions or repurchases reported in Item 5(vi) may be used by the issuer in future years to offset sales (by including it in response to Item 5(iii) of Form 24F-2 filed for the next fiscal year).

8. Item 5(vii)—The multiplier for calculation of the registration fee is determined by the Commission in accordance with Section 6(b) of the Securities Act [15 U.S.C. 77f(b)]. As of October 1, 1996, the multiplier was 1/3300. Use of a decimal factor or some other method to calculate registration fees may result in payment of an incorrect amount. This multiplier is subject to change from time to time, without notice, by act of Congress through appropriations for the Commission or other laws. Issuers should determine the current fee rate prior to the time of filing by reference to Section 6(b) and any law or regulation affecting Section 6(b). The Commission generally makes available information concerning changes in the fee rate on its Internet site at <http://www.sec.gov/news/press>. Unless otherwise specified by act of Congress, the fee rate in effect at the time of filing applies to all securities sold during the fiscal year, regardless of whether the fee rate changed during the year.

9. Item 5(viii)—If the issuer reports net redemptions or repurchases in Item 5(vi), report "0" in Item 5(viii).

D. Computation of Interest Due if Form is Filed Late

1. Item 6—Section 24(f) requires any issuer that pays its registration fee more than 90 days after the end of its fiscal year to pay interest to the Commission on unpaid amounts. The payment of interest does not preclude the Commission from bringing an action to enforce the requirements of section 24(f). Pursuant to section 11 of the Debt Collection Act [31 USC 3717], that rate is published by the Secretary of the Treasury. The rate is subject to quarterly revisions if the annual average of investment rates changes by two percent. Otherwise, the rate

is computed each year for the 12 month period ending September 30 for applicability effective January 1 of the following year. The rate in effect for calendar year 1997 is 5 percent. As noted above, however, that rate is subject to change and filers owing interest should verify the current interest rate.

2. The interest is assessed only on the amount of the registration fee due, and begins to accrue on the 91st day following the end of the issuer's fiscal year. The amount of interest due should be calculated based on the interest rate in effect at the time the interest payment is made using the following formula:

$$I = (X) (Y) (Z/365)$$

Where:

I = Amount of interest due

X = Amount of registration fee due

Y = Applicable interest rate, expressed as a percentage

Z = Number of days by which the registration fee payment is late

E. Payment and Signature

1. Item 8—Identify which SEC account number (payor's CIK number) was designated to receive the payment.

2. The Form must be signed on behalf of the issuer by an authorized officer of the issuer. See rule 302 of Regulation S-T [17 CFR 232.302] regarding signatures on forms filed electronically.

[FR Doc. 97-18857 Filed 7-17-97; 8:45 am]

BILLING CODE 8010-01-U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 206, and 211

RIN 1010-AC02

Amendments to Gas Valuation Regulations for Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of further extension of public comment period.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it is extending the public comment period for a notice requesting comments on supplemental information which was published in the **Federal Register** on April 22, 1997, (62 FR 19536). In this notice MMS withdrew its proposed rulemaking to amend the regulations for valuing natural gas produced from Federal leases and requested comments on supplemental options for natural gas valuation.

In response to requests for additional time, MMS will further extend the comment period from July 23, 1997, to September 22, 1997.

DATES: Comments must be submitted on or before September 22, 1997.

ADDRESSES: Written comments or suggestions should be sent to the following addresses.

For comments sent via the U.S. Postal Service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225-0165.

For comments via courier or overnight delivery service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, MS 3021, Building 85, Denver Federal Center, Room A-613, Denver, Colorado 80225-0165.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, phone: (303) 231-3432, FAX: (303) 231-3385 or (303) 231-3194, e-Mail: David_Guzy@mms.gov.

SUPPLEMENTARY INFORMATION: MMS received requests from representatives of the oil and gas industry to extend the comment period of this notice. This time extension is in response to these requests in order to provide commentators with adequate time to provide detailed comments.

Dated: July 15, 1997.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 97-18998 Filed 7-17-97; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-241-FOR, #74]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Ohio permanent regulatory program (hereinafter referred to as the "Ohio program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to section 150.13-6-03 of the Ohio Administrative Code (OAC) dealing with the Small Operator Assistance Program (SOAP). The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.] August 4, 1997.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Field Branch Chief, at the address listed below.

Copies of the Ohio program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Field Branch Chief,
Appalachian Regional Coordinating
Center, Office of Surface Mining
Reclamation and Enforcement, 3
Parkway Center, Pittsburgh PA 15220,
Telephone: (412) 937-2153
Ohio Division of Mines and
Reclamation, 1855 Fountain Square
Court, Columbus, Ohio 43244,
Telephone: (614) 265-1076.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Telephone: (412) 937-2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 935.11, 935.15, and 935.16.

II. Description of the Proposed Amendment

By letter dated October 3, 1996, (Administrative Record No. OH-2170-00) Ohio submitted a proposed amendment to its program regarding its SOAP pursuant to SMCRA. Ohio submitted the proposed amendment at its own initiative. OSM announced receipt of the proposed amendment in the October 18, 1996, **Federal Register** (61 FR 54373) and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on November