

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

Extension:

Rule 17Ad-2(c), (d), and (h), SEC File No. 270-149 OMB Control No. 3235-0130
Rule 17Ad-10, SEC File No. 270-265 OMB Control No. 3235-0273

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 extension of the previously approved collections of information discussed below.

Rule 17Ad-2(c), (d) and (h) Transfer Agent Turnaround, Processing and Forwarding Requirements

Rule 17Ad-2(c), (d), and (h), under the Securities Exchange Act of 1934, enumerate the requirements with which transfer agents must comply to inform the Commission or the appropriate regulator of a transfer agent's failure to meet the minimum performance standards set by the Commission rule by filing a notice.

While it is estimated there are 1,326 transfer agents, approximately ten notices pursuant to 17Ad-2(c), (d), and (h) are filed annually. In view of (a) the readily available nature of most of the information required to be included in the notice (since that information must be compiled and retained pursuant to other Commission rules); (b) the summary fashion that such information must be presented in the notice (most notices are one page or less in length); and (c) the experience of the staff regarding the notices, the Commission staff estimates that, on the average, most Notices require approximately one-half hour to prepare. The Commission staff estimates a cost of approximately \$30.00 for each half hour spent preparing the notices per year, transfer agents spend an average of five hours per year complying with the rule at a cost of \$300.

Rule 17Ad-10 Prompt Posting of Certificate Detail to Master Securityholder Files; Maintenance of Accurate Securityholder Files and Control Book; and Retention of Certificate Detail

Rule 17Ad-10, under the Securities Exchange Act of 1934, requires approximately 1,326 registered transfer agent to create and maintain minimum information on securityholders' ownership of an issue of securities for which it performs transfer agent functions, including the purchase, transfer and redemptions of securities.

In addition, the rule also requires transfer agents that maintain securityholder records to keep certificate detail that has been cancelled from those records for a minimum of six years and to maintain and keep current an accurate record of the number of shares or principle dollar amount of debt securities that the issuer has authorized to be outstanding (a "control book"). These recordkeeping requirements assist in the creation and maintenance of accurate securityholder records, the ability to research errors, and ensure the transfer agent is aware of the number of securities that are properly authorized by the issuer, thereby avoiding overissuance.

The staff estimates that the average number of hours necessary for each transfer agent to comply with Rule 17Ad-10 is approximately 20 hours per year, totalling 26,520 hours industry-wide. The average cost is approximately \$20 per hour, with the industry-wide cost estimated at approximately \$530,400. However, the information required by Rule 17Ad-10 generally already is maintained by registered transfer agents. The amount of time devoted to compliance with Rule 17Ad-10 varies according to differences in business activity.

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

Written comments regarding the above information should be directed to the following persons: (i) 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; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 8, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-32826 Filed 12-16-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Ballantyne of Omaha, Inc., Common Stock, \$.01 Par Value) File No. 1-13906

December 11, 1997.

Ballantyne of Omaha, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex" or "Exchange").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Security recently was listed for trading on the New York Stock Exchange ("NYSE") pursuant to a Registration Statement which became effective December 1, 1997. Trading in the Security commenced on the NYSE on December 5, 1997. The Company's Board of Directors determined that in order to avoid the costs and the division of the market resulting from a dual-listing, the Security should be withdrawn from listing and registration on the Amex.

The Company has complied with Amex Rule 18 by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of the Security from listing and registration on the Amex, and by setting forth in detail to the Exchange the reasons and facts supporting the withdrawal.

In making the decision to withdraw its Security from listing and registration on the Amex, the Company also considered the increased visibility and liquidity that a listing on the NYSE may provide.

By letter dated November 14, 1997, the Amex informed the Company that it had no objection to the withdrawal of the Company's Security from listing and registration on the Amex.

By reason of Section 12(b) of the Act and the rules thereunder, the Company shall continue to be obligated to file reports with the Commission and the Exchange under Section 13 of the Act.

Any interested person may, on or before January 6, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street,

N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 97-32820 Filed 12-16-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA-1686/803-116]

ProFutures Capital Management, Inc.; Notice of Application

December 11, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 ("Advisers Act").

Applicant: ProFutures Capital Management, Inc. ("PMC").

Relevant Advisers Act Sections: Exemption requested under section 203A(c) from section 203A(a).

Summary of Application: Applicant requests an order to permit it to register with the SEC as an investment adviser.

Filing Dates: The application was filed on July 8, 1997, and amended on October 3, 1997 and December 2, 1997.

Hearing or Notification of Hearing

An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the requests, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 7, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549.

Applicant, ProFutures Capital Management, Inc., Suite 200, 1310 Highway 620 South, Austin, Texas 78374.

FOR FURTHER INFORMATION CONTACT: Robert J. Leonard, Attorney, at (202) 942-0646, or Jennifer S. Choi, Special Counsel, at (202) 942-0716 (Division of Investment Management, Task Force on Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Texas corporation with its principal place of business in Austin, Texas. Applicant researches and evaluates the performance and trading programs of other investment advisers who manage client accounts on a discretionary basis and refers clients to those advisers selected by applicant.

2. Applicant assists prospective clients in identifying their investment objectives and risk tolerance, and provides information on investment advisers whose trading programs seek to meet those objectives. Applicant provides clients with account opening documents and reviews all account documents for accuracy before forwarding them to the adviser that the client has selected. Applicant also reviews all accounts for client suitability. Additionally, applicant assists clients in allocating assets among the selected investment advisers and suggests adjustments to the allocations. Applicant does not have discretionary authority on behalf of clients to select the advisers or allocate client funds to selected advisers.

3. Applicant is compensated for referring clients to selected advisers by sharing in up to one half of the management fee charged by such adviser. Applicant has over 700 clients located nationwide. These clients include individuals, financial institutions, pension and profit sharing plans, trusts, estates and other corporate entities.

4. Applicant is legally obligated to be registered in at least 30 states as an investment adviser, taking into account the national de minimis standard in section 222(d) of the Advisers Act and all applicable exemptions and exclusions under the securities laws and regulations of such states. Applicant is currently registered in 46 states. Applicant was registered as an investment adviser with the SEC until July, 1997.

Applicant's Legal Analysis

1. On October 11, 1996, the National Securities Markets Improvement Act of 1996 was enacted. Title III of the Act, the Investment Advisers Supervision Coordination Act ("Coordination Act"), added new section 203A to the Advisers Act. Under section 203A(a)(1),¹ an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business is prohibited from registering with the SEC unless the investment adviser (i) has assets under management of not less than \$25 million or (ii) is an adviser to an investment company registered under the Investment Company Act of 1940 ("Investment Company Act"). Section 203A(a)(2) defines the phrase "assets under management" as the "securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services."²

2. Applicant states that it does not qualify for registration as an investment adviser with the SEC. Applicant states that it has no assets under management, does not act as an investment adviser to an investment company registered under the Investment Company Act, and does not qualify for exemption from the prohibition on SEC registration as provided in rule 203A-2 under the Advisers Act. Applicant also maintains its principal place of business in Texas, which regulates applicant as an investment adviser.

3. Section 203A(c) of the Advisers Act authorizes the SEC to permit an investment adviser to register with the SEC if prohibiting registration would be "unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of [section 203A]."³

4. Applicant states that Congress noted that "the definition of 'assets under management' . . . may, in some cases, exclude firms with a national or multistate practice from being able to register with the SEC."⁴ Applicant asserts that to remedy any unfairness, burdens or inconsistencies caused by the assets under management requirement, Congress intended the SEC to use its exemptive authority to "permit, where appropriate, the registration of such firms with the [SEC]."⁵

5. Applicant believes that Congress in adopting section 203A intended the SEC

¹ 15 U.S.C. 80b-3a(a)(1).

² 15 U.S.C. 80b-3a(a)(2).

³ 15 U.S.C. 80b-3a(c).

⁴ S. Rep. No. 293, 104th Cong., 2d Sess. 4 (1996).

⁵ *Id.* at 5.