

public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301-415-7080, TDD: 301-415-2100, or by e-mail at [aks@nrc.gov](mailto:aks@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: June 22, 2005.

**R. Michelle Schroll**

*Office of the Secretary*

[FR Doc. 05-12687 Filed 6-23-05; 8:45 am]

BILLING CODE 7590-01-M

## NUCLEAR REGULATORY COMMISSION

### Notice of Availability of Interim Staff Guidance Documents for Fuel Cycle Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**FOR FURTHER INFORMATION CONTACT:**

Wilkins Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005-0001. Telephone: (301) 415-5788; fax number: (301) 415-5370; e-mail: [wrs@nrc.gov](mailto:wrs@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Introduction

The Nuclear Regulatory Commission (NRC) is preparing and issuing Interim Staff Guidance (ISG) documents for fuel cycle facilities. These ISG documents provide clarifying guidance to the NRC staff when reviewing licensee integrated safety analyses, license applications or amendment requests or other related licensing activities for fuel cycle facilities under Subpart H of 10 CFR Part 70. FCSS-ISG-01, -04, and -09 have been issued and are provided for information.

#### II. Summary

The purpose of this notice is to provide notice to the public of the

issuance of Interim Staff Guidance documents for fuel cycle facilities. FCSS-ISG-01, Revision 0, provides guidance to NRC staff relative to methods for qualitative evaluation of likelihood in the context of a review of a license application or amendment request under 10 CFR Part 70, Subpart H. FCSS-ISG-01, Revision 0, has been approved and issued after a general revision based on NRC staff and public comments on the initial draft. FCSS-ISG-04, Revision 0 has been approved and issued and provides guidance relative to baseline design criteria for new facilities and new processes at existing facilities. FCSS-ISG-09, Revision 0, has been approved and issued and provides guidance relative to initiating event frequencies for integrated safety assessments.

#### III. Further Information

Documents related to this action are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are provided in the following table. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Interim staff guidance	ADAMS accession No.
FCSS Interim Staff Guidance-01, Revision 0 .....	ML051520236
FCSS Interim Staff Guidance-04, Revision 0 .....	ML051520313
FCSS Interim Staff Guidance-09, Revision 0 .....	ML051520323

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Comments on these documents may be forwarded to Wilkins Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005-0001. Comments can also be submitted by telephone, fax, or e-mail which are as follows: Telephone: (301) 415-5788; fax

number: (301) 415-5370; e-mail: [wrs@nrc.gov](mailto:wrs@nrc.gov).

Dated at Rockville, Maryland this 9th day of June, 2005. For the Nuclear Regulatory Commission.

**Melanie A. Galloway,**

*Chief, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 05-12639 Filed 6-24-05; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

*Extension:*

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

Rule 17f-7, SEC File No. 270-470, OMB Control No. 3235-0529

Form N-17D-1, SEC File No. 270-231, OMB Control No. 3235-0229

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

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

*Rule 17f-5.* Rule 17f-5 under the Investment Company Act of 1940 [15 U.S.C. 80a] ("Investment Company Act" or "Act") governs the custody of the assets of registered management investment companies ("funds") with custodians outside the United States.<sup>1</sup> Under Rule 17f-5, the fund's board of directors must find that it is reasonable to rely on each delegate it selects to act as the fund's foreign custody manager. The delegate must agree to provide written reports that notify the board when the fund's assets are placed with a foreign custodian and when any material change occurs in the fund's custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care. When the foreign custody manager selects an

<sup>1</sup> 17 CFR 270.17f-5. All references to rules 17f-5, 17f-7, 17d-1, or 19b-1 in this notice are to 17 CFR 270.17f-5, 17 CFR 270.17f-7, 17 CFR 270.17d-1, and 17 CFR 270.19b-1, respectively.

eligible foreign custodian, it must determine that the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f-5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,<sup>2</sup> and that is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager periodically reviews each custody arrangement and takes appropriate action if developing custody risks may threaten fund assets.

The Commission's staff estimates that each year, approximately 207 registrants<sup>3</sup> could be required to make

<sup>2</sup> See section 17(f) of the Investment Company Act [15 U.S.C. 80a-17(f)].

<sup>3</sup> This figure is an estimate of the number of new funds each year, based on data reported by funds in 2004 on Form N-1A and Form N-2 [17 CFR

an average of one response per registrant under rule 17f-5, requiring approximately 2 hours of director time per response, to make the necessary findings concerning foreign custody managers. The total annual burden associated with these requirements of the rule would be up to approximately 414 hours (207 registrants  $\times$  2 hours per registrant). The staff further estimates that during each year, approximately 15 global custodians<sup>4</sup> would be required to make an average of 4 responses per custodian concerning the use of foreign custodians other than depositories. The staff estimates that each response would take approximately 275 hours, requiring approximately 1,100 total hours annually per custodian. The total annual burden associated with these requirements of the rule would be approximately 16,500 hours (15 global custodians  $\times$  1,100 hours per custodian). Therefore, the total annual burden of all collection of information requirements of rule 17f-5 is estimated to be up to 16,914 hours (414 + 16,500). The total annual cost of burden hours is estimated to be \$1,032,000 (414 hours  $\times$  \$500/hour for director time, plus 16,500 hours  $\times$  \$50/hour of professional time). Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians.

*Rule 17f-7.* Rule 17f-7 permits funds to maintain their assets in foreign securities depositories based on conditions that reflect the operations and role of these depositories.<sup>5</sup> Rule 17f-7 contains some "collection of information" requirements. An eligible securities depository has to meet minimum standards for a depository. The fund or its investment adviser generally determines whether the depository complies with those requirements based on information provided by the fund's primary custodian (a bank that acts as global custodian). The depository custody arrangement has to meet certain risk limiting requirements. The fund can obtain indemnification or insurance arrangements that adequately protect

274.101]. In practice, not all funds will use foreign custody managers, and the actual figure may be smaller.

<sup>4</sup> This estimate is the same used in connection with the adoption of the amendments to rule 17f-5 and of rule 17f-7 in 1999, based on staff review of custody contracts and other research. The number of global custodians has not changed significantly since 1999.

<sup>5</sup> Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. IC-23815 (April 29, 1999) [64 FR 24489 (May 6, 1999)].

the fund against custody risks. The fund or its investment adviser generally determines whether indemnification or insurance provisions are adequate. If the fund does not rely on indemnification or insurance, the fund's contract with its primary custodian is required to state that the custodian will provide to the fund or its investment adviser a custody risk analysis of each depository, monitor risks on a continuous basis, and promptly notify the fund or its adviser of material changes in risks. The primary custodian and other custodians also are required to agree to exercise reasonable care.

The collection of information requirements in rule 17f-7 are intended to provide workable standards that protect funds from the risks of using securities depositories while assigning appropriate responsibilities to the fund's primary custodian and investment adviser based on their capabilities. The requirement that the depository meet specified minimum standards is intended to ensure that the depository is subject to basic safeguards deemed appropriate for all depositories. The requirement that the custody contract state that the fund's primary custodian will provide an analysis of the custody risks of depository arrangements, monitor the risks, and report on material changes is intended to provide essential information about custody risks to the fund's investment adviser as necessary for it to approve the continued use of the depository. The requirement that the primary custodian agree to exercise reasonable care is intended to provide assurances that its services and the information it provides will meet an appropriate standard of care. The alternative requirement that the fund obtain adequate indemnification or insurance against the custody risks of depository arrangements is intended to provide another, potentially less burdensome means to protect assets held in depository arrangements.

The staff estimates that each of approximately 980 investment advisers<sup>6</sup> would make an average of 4 responses annually under the rule to address depository compliance with minimum requirements, any indemnification or insurance arrangements, and reviews of risk analyses or notifications. The staff estimates each response would take 5 hours, requiring a total of approximately 20 hours for each adviser. The total annual burden associated with these

<sup>6</sup> At the start of 2005, there were more than 36,800 investment company portfolios that were managed or sponsored by more than 980 mutual fund complexes. A fund complex is a group of funds, all of which typically have the same adviser.

requirements of the rule would be approximately 19,600 hours (980 advisers  $\times$  20 hours per adviser). The staff further estimates that during each year, each of approximately 15 global custodians would make an average of 4 responses to analyze custody risks and provide notice of any material changes to custody risk under the rule. The staff estimates that each response would take 500 hours, requiring approximately 2,000 hours annually per custodian.<sup>7</sup> The total annual burden associated with these requirements of the new rule would be approximately 30,000 hours (15 custodians  $\times$  2,000 hours). Therefore, the staff estimates that the total annual burden associated with all collection of information requirements of the rule would be 49,600 hours (19,600 + 30,000). The total annual cost of burden hours is estimated to be \$2,480,000 (49,600 hours  $\times$  \$50/hour of professional time). The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians.

*Form N-17D-1.* Section 17(d) [15 U.S.C. 80a-17(d)] of the Investment Company Act authorizes the Commission to adopt rules that protect funds and their security holders from overreaching by affiliated persons when the fund and the affiliated person participate in any joint enterprise or other joint arrangement or profit-sharing plan. Rule 17d-1 under the Act prohibits funds and their affiliated persons from participating in a joint enterprise, unless an application regarding the transaction has been filed with and approved by the Commission. Subparagraph (d)(3) of the rule provides an exemption from this requirement for any loan or advance of credit to, or acquisition of securities or other property of, a small business concern, or any agreement to do any of the foregoing ("investments") made by a small business investment company ("SBIC") and an affiliated bank, provided that reports about the investments are made on forms the Commission may prescribe. Rule 17d-2 designates Form N-17D-1 ("form") as the form for reports required by rule 17d-1(3).

<sup>7</sup> These estimates are based on conversations with representatives of the fund industry and global custodians.

SBICs and their affiliated banks use form N-17D-1 to report any contemporaneous investments in a small business concern. The form provides shareholders and persons seeking to make an informed decision about investing in an SBIC an opportunity to learn about transactions of the SBIC that have the potential for self dealing and other forms of overreaching by affiliated persons at the expense of shareholders.

Form N-17D-1 requires SBICs and their affiliated banks to report identifying information about the small business concern and the affiliated bank. The report must include, among other things, the SBIC's and affiliated bank's outstanding investments in the small business concern, the use of the proceeds of the investments made during the reporting period, any changes in the nature and amount of the affiliated bank's investment, the name of any affiliated person of the SBIC or the affiliated bank (or any affiliated person of the affiliated person of the SBIC or the affiliated bank) who has any interest in the transactions, the basis of the affiliation, the nature of the interest, and the consideration the affiliated person has received or will receive.

Up to five SBICs may file the form in any year.<sup>8</sup> The Commission estimates the burden of filling out the form is approximately one hour per response and would likely be completed by an accountant or other professional. Based on past filings, the Commission estimates that no more than one SBIC is likely to use the form each year. The estimated total annual burden of filling out the form is one hour and the total annual cost is \$53.<sup>9</sup> The Commission will not keep responses on Form N-17D-1 confidential.

*Rule 19b-1.* Rule 19b-1 prohibits funds from distributing long-term capital gains more than once every twelve months unless certain conditions are met. Rule 19b-1(c) permits unit investment trusts ("UITs") engaged exclusively in the business of investing in certain eligible fixed-income securities to distribute long-term capital gains more than once every twelve months, if: (i) The capital gains distribution falls within one of several categories specified in the rule; and, (ii)

<sup>8</sup> As of April 22, 2005, five SBICs were registered with the Commission.

<sup>9</sup> Commission staff estimates that the annual burden would be incurred by accounting professionals with an average hourly wage rate of \$53.08 per hour. See Securities Industry Association, *Report on Management and Professional Earnings in the Securities Industry—2003* (2003) (reporting median salary paid to senior accountants outside New York).

the distribution is accompanied by a report to the unit holder that clearly describes the distribution as a capital gains distribution. The purpose of this notice requirement is to ensure that unit holders understand that the source of the distribution is long-term capital gains.

Rule 19b-1(e) permits a fund to apply for permission to distribute long-term capital gains more than once a year if the fund did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution. An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application. The Commission uses the information required by rule 19b-1(e) to facilitate the processing of requests from funds for authorization to make a distribution that would not otherwise be permitted by the rule.

The staff understands that funds that file an application generally use outside counsel to prepare the 19b-1(e) application. The staff estimates that, on average, the fund's investment adviser spends approximately four hours to review an application. The staff estimates that, on average, seven funds file an application per year under this rule for an estimated annual collection of information burden of 28 hours.

There is a cost burden associated with rule 19b-1(e). As noted above, the staff understands that funds that file for exemption under rule 19b-1(e) generally use outside counsel to prepare the exemptive application. The staff estimates that, on average, 10 hours is required to prepare a rule 19b-1(e) exemptive application by outside counsel, including 8 hours by an associate and 2 hours by a partner. The staff estimates that the average cost of outside counsel preparation of the 19b-1(e) exemptive application is \$3,500. An average of 7 funds file under 19b-1(e) for an exemptive application each year, therefore the staff estimates that the annual cost burden imposed by rule 19b-1(e) is \$24,500.

The Commission staff estimates that there is no hour burden associated with paragraph (c) of rule 19b-1. There is also a cost burden associated with rule 19b-1(c). The staff estimates that there are approximately 6,485 UITs. For purposes of this Paperwork Reduction Act analysis, the staff has assumed that each of these UITs could rely on rule 19b-1(c) to make capital gains distributions. The staff estimates that, on average, UITs rely on rule 19b-1(c)

once a year to make a capital gains distribution.<sup>10</sup> The staff estimates that a UIT incurs a cost of \$50, which is encompassed within the fee the UIT pays its trustee, to prepare a notice for a capital gains distribution under rule 19b-1(c). These notices require limited preparation, the cost of which accounts for only a small, indiscrete portion of the comprehensive fee charged by the trustee for its services to the UIT. There is no separate cost to mail the notices because they are mailed with the capital gains distribution. Thus, the staff estimates that the notice requirement imposes an annual cost on UITs of approximately \$324,250.

Based on these calculations, the total number of respondents for rule 19b-1 is estimated to be 6,492 (6,485 UIT portfolios + 7 funds filing an application under rule 19b-1(e)), the total annual hour burden is estimated to be 28 hours, and the total annual cost burden is estimated to be \$348,750. These estimates of average annual burden hours and costs are made solely for purposes of the Paperwork Reduction Act. The collections of information required by 19b-1(c) and 19b-1(e) are necessary to obtain the benefits described above. Responses will not be kept confidential.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. 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 OMB control number.

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

<sup>10</sup> The number of times UITs may rely on the rule to make capital gains distributions depends on a wide range of factors and, thus, can vary greatly from one year to another. A number of UITs are organized as grantor trusts, and therefore do not generally make capital gains distributions under rule 19b-1(c), or may not rely on rule 19b-1(c) as they do not meet the rule's requirements. Other UITs may distribute capital gains biannually, annually, quarterly, or at other intervals.

comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: June 17, 2005.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E5-3325 Filed 6-24-05; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application of IVAX Diagnostics, Inc. To Withdraw Its Common Stock, \$.01 Par Value, From Listing and Registration on the Boston Stock Exchange, Inc. File No. 1-14798

June 17, 2005.

On June 6, 2005, IVAX Diagnostics, Inc., a Delaware corporation ("Issuer"), filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>; and Rule 12d2-2(d) thereunder,<sup>2</sup> to withdraw its common stock, \$.01 par value ("Security"), from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

On June 1, 2005, the Board of Directors ("Board") of the Issuer approved a resolution to withdraw the Security from listing and registration on BSE. In making the decision to withdraw the Security from BSE, the Board stated that the following reasons, among others, factored into its decision. On January 13, 2000, b2bstores.com, Inc. ("b2bstores"), the predecessor to the Issuer, filed a Form 8-A/A with the Commission stating that b2bstores had registered the Security to list on BSE. On March 14, 2001, the Issuer, then a wholly-owned subsidiary of IVAX Corporation, merged with and into b2bstores, and on the same day, the Issuer filed a Form 8-A/A with the Commission stating that the Issuer had registered its Security to list on the American Stock Exchange, LLC ("Amex"). Since that time, the Security has been, and currently continues to be, principally listed and traded on Amex, while it is only listed (but not traded) on BSE.

The Issuer stated in its application that it has complied with BSE rules by

complying with all applicable laws in the State of Delaware, the state in which the Issuer is incorporated, and by filing with BSE the required documents governing the withdrawal of securities from listing and registration on BSE.

The Issuer's application relates solely to withdrawal of the Security from listing on BSE and shall not affect its continued listing on Amex or its obligation to be registered under section 12(b) of the Act.<sup>3</sup>

Any interested person may, on or before July 13, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of BSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/delist.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include the File Number 1-14798 or;

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F. Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number 1-14798. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/delist.shtml>). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

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.

<sup>1</sup> 15 U.S.C. 78l(d).

<sup>2</sup> 17 CFR 240.12d2-2(d).

<sup>3</sup> 15 U.S.C. 78-(b).