

sec news digest

a daily summary from the securities and exchange commission

Issue 73-184

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September 21, 1973

RULE PROPOSALS AND ADOPTIONS

REVISED RULE 9b-1 PROPOSED. The Commission today released for public comment proposed Rule 9b-1 as revised. Rule 9b-1 was originally released for comment on January 9, 1973 (Rel. 34-9930). In consideration of comments received, the rule has been revised, primarily for purposes of simplicity and clarity.

Revised Rule 9b-1 would make it unlawful for any exchange or its members to use its facilities for option transactions except in accordance with a plan approved by the Commission. The rule would also require any amendments to such a plan to be filed with the Commission for approval. In the case of a plan or amendments filed with the Commission, interested persons would be given notice of the proposed plan or amendments and would have an opportunity to submit "written data, views or arguments." Plans filed pursuant to Rule 9b-1 would be required to include all rules, regulations, by-laws and other requirements of the exchange that relate solely or significantly to transactions in options.

Under the proposed revised rule, the Commission will consider constitution and rules of the Chicago Option Board Exchange and its clearing corporation to constitute the CBOE's plan under Rule 9b-1, if adopted, and would expect to declare CBOE's plan effective simultaneously with the effectiveness of the rule, so as not to interrupt the operation of CBOE's experiemntal project.

Interested persons are invited to submit comments on the proposed rule and CBOE's "plan" to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D. C. 20549, on or before October 19, 1973. (Rel. 34-10397)

SEC PROPOSED MODIFICATION OF VARIABLE LIFE INSURANCE RULES. Amendments to present exemptive rules covering variable life insurance to provide increased investor protection are being considered by the Commission. Variable life insurance in the form proposed by a number of United States insurance companies would provide fixed minimum death benefits and at the same time enable the purchaser to share in the investment performance of a portfolio of securities. Variable life insurance has not yet been sold to individuals in the United States.

In January 1973, in response to a petition by representatives for the insurance industry, the Commission determined that insurance companies offering variable life insurance contracts having certain specified characteristics would be subject to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940 and the Investment Advisers Act of 1940.

As a result, the Commission adopted Rule 3c-4 under the Investment Company Act and Rule 202-1 under the Investment Advisers Act of 1940 to exempt from those statutes separate accounts used for the offer and sale of such contracts and advisers to such separate accounts.

In connection with the adoption of Rule 3c-4 under the Investment Company Act, the Commission stated that while some of the protections of the Act would be relevant to variable life insurance, variable life insurance separate accounts should be exempted from the Act "(i)n deference ... to the established Congressional policy of preserving state regulation of insurance."

With respect to Rule 202-1 under the Investment Advisers Act, the Commission also noted its expectation that the states would provide adequate protection and its intention to monitor closely developments under state law.

In making its announcement the Commission said that it is concerned that variable life insurance contracts, for which Securities Act registration statements have already been and may in the future be filed, might be sold to the public prior to the development of appropriate state regulation. After giving further consideration to the Rules and the comments received in the earlier comment period, the Commission believes that this situation should be avoided. Accordingly, the Commission proposes that the exemptions afforded in Rules 3c-4 and 202-1 be specifically conditioned upon a Commission determination that the state laws or regulations affecting the operations of such separate accounts provide investor protections substantially equivalent to the relevant protections of the Investment Company Act and the Investment Advisers Act. The Commission believes that this modified approach will assure investors that they will be protected against the possibility that variable life insurance contracts will be sold prior to the time the states have adopted regulations consistent with the relevant protections of these statutes.

The proposed amendment to rule 3c-4 under the Investment Company Act specifies five areas of investor protection which the Commission might consider in determining whether applicable state laws provide protection equivalent to those which are provided by the Investment Company Act. These areas are: (1) the valuation of portfolio securities in a uniform manner; (2) the annual reporting to contractholders of information similar in nature to the information that would be provided by a registered investment company to its shareholders through annual reports and proxy statements; (3) prohibitions against unauthorized or improper changes in investment policies; (4) protection against excessive management fees, administrative fees and sales charges; and (5) protections similar to those afforded by Section 17 of the Act relating to transactions with affiliates.

The Commission stated that in addition to these enumerated provisions the Commission is considering whether the rule should require as a condition of exemption that applicable state law or regulations include provision for other areas of concern under the Investment Company Act. Accordingly, the Commission particularly requests comment as to the appropriateness and relevance of requirements with respect to state law on other areas, including eleven other areas set forth in the release.

All interested persons are invited to submit their written views and comments on the proposed Rule amendments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D. C. 20549 on or before 5:30 p.m. Tuesday, October 23, 1973. All communications in this regard should refer to File No. 4-149, and will be available for public inspection. (Rel. IC-8000)

COMMISSION ANNOUNCEMENTS

VANDERBILT GOLD CORP. TRADING BANNED. The SEC announced the suspension of over-the-counter trading in the securities of Vanderbilt Gold Corporation, of Santa Monica, Cal., for a ten-day period beginning on September 20 and continuing through September 29, 1973.

The suspension was initiated because of questions raised as to the accuracy and adequacy of information which has been disseminated to members of the public concerning Vanderbilt's present and proposed operations, the estimated earnings per share for 1974 and 1975, the success of previous mining operations on the company's properties, the reserve potential of gold bearing material on the company's properties, anticipated monthly production, earnings estimates, net profits before and after taxes, and the company's proven and probable ore reserves.

Amendment No. 3 filed in August 1973 to Form S-3 filed with the Commission by Vanderbilt in March 1972 covering a proposed offering of 350,000 shares of common stock, discloses that the securities involve a high degree of risk, and that:

(1) Vanderbilt, its subsidiaries and predecessors have expended \$2,756,000 on its properties and that these activities have not established the existence of a commercially mineable ore body;

(2) Vanderbilt has no operating history;

(3) As of June 30, 1973, current liabilities of Vanderbilt amounted to \$191,835 as compared to current assets of \$20,255;

(4) The California Commissioner of Corporations ordered suspension of over-the-counter trading in California in Vanderbilt's common stock on February 10, 1973; and

(5) The public investor under the registration statement will experience an immediate dilution of 71¢ per share.

The registration statement has not been declared effective. The Commission has not passed upon the accuracy or adequacy of the information declared therein. (Rel. 34-10401)

COURT ENFORCEMENT ACTIONS

BUENA PARK SECURITIES ENJOINED. The Los Angeles Regional Office announced that the U. S. Federal Judge at Los Angeles, on September 14 permanently enjoined Buena Park Securities, Inc., Buena Park, California broker-dealer and Arthur K. Shealey, its president, of Fullerton, California, from violations of the anti-fraud provisions of the securities laws in the sale to customers and non-delivery of the common stock of Mercury Savings and Loan Association. The order also enjoins the failure to maintain minimum net capital, the failure to maintain current books and records, and the filing of certain false and misleading reports with the SEC.

Harold L. Orchid, was appointed the trustee of Buena Park Securities under the Securities Investor Protection Act for the purpose of settling customer claims. The defendants consented to the entry of the injunction and the appointment of the trustee without admitting or denying the allegations. (LR-6066)

CLARK SENTENCED TO ONE YEAR IMPRISONMENT. The Forth Worth Regional Office announced that Jack L. Clark of Oklahoma City, Oklahoma, former president of Four Seasons Nursing Centers of America, Inc., was sentenced on September 18, 1973, to one year imprisonment after he had previously pleaded guilty on June 4, 1973, to the conspiracy count of an indictment which charged Clark and others with violations of the anti-fraud and false filing provisions of the federal securities laws and the mail and wire fraud statutes. The indictment alleged that Clark had sold personally owned stock of Four Seasons to the public through the use of materially false and misleading financial statements. (LR-6067)

AMERICAN PORK PRODUCERS, INC., OTHERS, ENJOINED. The Chicago Regional Office announced that on September 10 the Federal Court in Chicago permanently enjoined American Pork Producers, Inc., Emery Vlotho, Investment Diversified Limited, Dennis M. Keese, and Lee Shoaf from violations of the registration provisions of the securities laws in the offer and sale of investment contracts involving pigs. In addition, Investment Diversified Limited, Dennis M. Keese, and Lee Shoaf were enjoined from violations of the broker-dealer registration provisions. The defendants consented to the Court order without admitting or denying the allegations of the Commission's complaint. (LR-6068)

INVESTMENT COMPANY ACT RELEASES

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY. An order has been issued on an application of Massachusetts Mutual Life Insurance Company and Massachusetts Mutual Variable Annuity Fund 2, a unit investment trust, with respect to certain deferred variable annuity contracts. The order (1) permits the application of purchase payments received and the determination of death benefits and redemption values to be based on valuations as of the close of the New York Stock Exchange on the date of the event whether before or after the close of the Exchange; (2) permits the contracts to be sold without a deduction for sales expenses upon the receipt of proceeds payable under fixed-dollar life insurance or annuity contracts previously issued by the insurance company; and (3) exempts applicants from various requirements pertaining to the trusteeship or custodianship of the Fund's assets. (Rel. IC-7994)

NEW ISSUES FUND, INC. An order has been issued declaring that New Issues Fund, Inc., of New York, has ceased to be an investment company. (Rel. IC-7995)

NEUWIRTH FUND, INC. An order has been issued granting an application by Neuwirth Fund, Inc., Neuwirth Century, Inc., Neuwirth Income Development Corporation (NIDCO), all registered mutual funds, and Neuwirth Management and Research Corporation, investment adviser to Neuwirth Fund and Century, and Neuwirth Financial Corporation, investment adviser to NIDCO. The order permits the continuation of such investment advisory relations from June 28, 1973, when the investment advisory contracts relating thereto were terminated by the death of Henry Neuwirth, controlling shareholder of the investment advisers, until October 31, 1973. (Rel. IC-7998)

MISCELLANEOUS

TRADING SUSPENSIONS CONTINUED. The SEC has ordered suspension of (a) exchange and over-the-counter trading in the securities of BBI, Inc. and U. S. Financial, Inc., and over-the-counter trading in the securities of Aztec Products, Inc., Beneficial Laboratories, and Triex International Corp, for the further ten-day period September 21-30, inclusive; (b) over-the-counter trading in the securities of Diversified Earth Sciences, Inc. for the further ten-day period September 22-October 1, inclusive; (c) exchange and over-the-counter trading in the securities of Coastal States Gas Corp., Coastal States Gas Producing Co., Colorado Interstate Corp., and CIC Industries Inc., and over-the-counter trading in the securities of Colorado Interstate Gas Company and First Leisure Corp. for the further ten-day period September 23-October 2, inclusive; and (d) exchange and over-the-counter trading in the securities of Equity Funding Corp. and Giant Stores Corp., and over-the-counter trading in the securities of Trionics Engineering Corp. and Industries International Inc. for the further ten-day period September 24-October 3, inclusive.

RECENT FORM 8-K FILINGS

Form 8K is a report which must be filed with the SEC by the 10th of the month after any of the following important events or changes changes in control of the registrant, acquisition or disposition of assets, legal proceedings, changes in securities (i.e., collateral for registered securities), defaults upon senior securities, increase or decrease in the amount of securities outstanding, options to purchase securities, revaluation of assets, submission of matters to a vote of security holders, and any newly enacted requirements effecting registrant's business.

The companies listed below have filed Form 8-K reports for the month indicated, responding to the item of the form specified. Photocopies may be purchased from the Commission's Public Reference Section (in ordering, please give month and year of report). An index of the captions of the items of the form was included in Monday's News Digest.

COMPANY	ITEM NO.	MONTH
ALBA WALDENSIAN INC	13	08/73
ALCO STANDARD CORP	4,7,8,14	08/73
ALLIED PROPERTIES	13,14	08/73
ALUDIX CORP	1	08/73
ALSKEMAN FOODS INC	11	08/73
AMECO INC	13	08/73
AMEKADA HESS CORP	3,13	08/73
AMERICAN APPRAISAL ASSOCIATES INC	11,14	08/73
AMERICAN DISTRICT TELEGRAPH CO	13	08/73
AMERICAN EQUITY INVESTMENT TRUST	7	08/73
AMERICAN FINANCIAL CORP	13,14	08/73
AMERICAN HEALTH SERVICES INC	13	08/73
ANACONDA CO	8	08/73
APPALACHIAN NATIONAL CORP	3,13,14	08/73
ARKANSAS BEST CORP	13	08/73
ARKANSAS LOUISIANA GAS CO	7	08/73
ARTEK SYSTEMS CORP	2,14	08/73
ASHLAND OIL INC	3	08/73
ATHLONE INDUSTRIES INC	3,0	08/73
ATLAS HOTELS INC	13	08/73
AVM CORP	6,13	08/73
BACHE & CO INC	7,13,14	08/73
BALL CORP	13	08/73
BANK SECURITIES INC	7	08/73
BARBIZON INTERNATIONAL INC	13	08/73
BENEFICIAL CORP	7	08/73
BEST LOCK CORP	13	09/73
BLESSING CORP	13	08/73
BRAND INSULATIONS INC	7,13,14	08/73
BRANIFF AIRWAYS INC	7,8	08/73
BUILDERS INVESTMENT GROUP	8	08/73
BUNKER KAMU CORP	13	08/73
BUTLER AVIATION INTERNATIONAL INC	12,14	08/73
CAMBRIDGE CORP	7,14	08/73
CAPITAL RESERVE CORP	2,14	08/73
CASCADE STEEL ROLLING MILLS INC	7,9,14	08/73
CENTRAL LOUISIANA ELECTRIC CO INC	14	08/73
CENTREE CORP	7,9,14	08/73
CENTURY MEDICAL INC	2,13	08/73
CERTAIN TEEB PRODUCTS CORP	3	08/73
CHARLES RIVER BREEDING LABORATORIES INC	2,14	08/73
CHARTER BANCORP	13,14	08/73
CHEEZEM DEVELOPMENT CORP	2,13	08/73
CHEERY HILL FOODS INC	13	08/73
CHICAGO MILWAUKEE SAINT PAUL & PACIFIC R	3	08/73
CHICAGO MUSICAL INSTRUMENT CO	2	08/73

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Copies of registration statements may be ordered from the Commission's Public Reference Section. All other referenced material is available in the issue of the SEC Docket indicated in parentheses below the News Digest Issue No. Both the News Digest (\$33.00 a year, first class mail, \$8.25 additional for foreign mailing, \$25.00 additional for air mail) and the SEC Docket (\$17.00 a year, first class mail, \$4.25 additional for foreign mailing) are for sale by the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402.