

sec news digest

Issue 80-207

OCT 27 1980

October 24, 1980

RULES AND RELATED MATTERS

LIBRARY

ADOPTION OF INTERIM RULES UNDER THE TRUST INDENTURE ACT OF 1939

The Commission announced that it is adopting, on an interim basis, rules under Section 304(a)(8) and 304(a)(9) of the Trust Indenture Act of 1939 to establish ceiling limitations on the amount of debt securities that can be partially or totally exempt from that Act at \$2 million and \$5 million respectively. The rules, adopted October 23, 1980, are in response to recent legislative amendments, the substance of which was submitted to Congress by the Commission. The effective date of the interim rules is October 23, 1980. The Commission is also soliciting public comment on whether, and in what form, the interim rules should be adopted as final rules.

Comments on the interim rules should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 on or before November 30, 1980 and should refer to File No. S7-859. All comments will be available for public inspection. (Rel. 33-6249)

FOR FURTHER INFORMATION CONTACT: Paula L. Chester at (202) 272-2644

FIXED DOLLAR LIMITATION ON AMOUNT OF SECURITIES SOLD PURSUANT TO EXEMPTION

The Commission announced that it was amending Rule 242 promulgated under Section 3(b) of the Securities Act of 1933, to specify a fixed dollar limitation on the amount of securities that can be sold thereunder, rather than the Rule's prior reference to the Section 3(b) ceiling amount. Rule 242 provides an exemption from registration for sales of securities to an unlimited number of "accredited investors" as defined in the Rule, and to 35 additional purchasers. The amendment maintains the present limit of \$2 million, less the aggregate proceeds from all securities sold pursuant to any Section 3(b) exemption in the six month period prior to the offering, on the aggregate offering price of an issue of securities that can be sold in reliance on the Rule. This amendment is necessitated by recent legislative changes to Section 3(b). The effective date of the amendment is October 23, 1980. (Rel. 33-6250)

FOR FURTHER INFORMATION CONTACT: Paula L. Chester at (202) 272-2644

REPORT OF SALES OF SECURITIES AND USE OF PROCEEDS THEREFROM

The Commission has authorized the publication of a release proposing for comment amendments to Rule 463 and related Form SR under the Securities Act of 1933. The proposals, if adopted, would extend the requirement to file Form SR (Report of Sales of Securities and Use of Proceeds Therefrom) to issuers of securities which will be sold by a direct distribution or by a best efforts underwriting and would reduce the number of reports which must be filed regarding a given offering. The proposals would also change Form SR to a standardized short-answer format, requiring issuers to provide additional identifying information and a more detailed accounting of offering expenses and the use of proceeds.

All comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before December 5, 1980 and should refer to File S7-860. All comments will be available for public inspection. (Rel. 33-6251)

FOR FURTHER INFORMATION CONTACT: Elizabeth Norsworthy at (202) 272-2589 or Jeffrey L. Davis at (202) 272-2850

ADMINISTRATIVE PROCEEDINGS

ADMINISTRATIVE PROCEEDINGS INSTITUTED AGAINST JEROME E. ROSEN AND SAUL RING

The Commission announced that it has instituted public administrative proceedings against Jerome E. Rosen and Saul Ring, who are registered representatives of broker-dealers registered with the Commission. In the Order instituting proceedings, Ring and Rosen are charged with violating the registration provisions of the Securities Act of 1933 in that they participated in an unlawful distribution of unregistered Westamerica Automotive Corporation common stock during 1976 and 1977.

Simultaneously with the issuance of the Order instituting proceeding, the respondents submitted Offers of Settlement in which they consented to the issuance of the Commission's findings of willful violations without admitting or denying any of the allegations or findings and consented to the imposition of sanctions. The Commission further ordered that Rosen and Ring be suspended from association with any broker or dealer for a period of 14 calendar days and that thereafter Ring be suspended for an additional seven calendar days from serving in any supervisory capacity. It was further ordered that Rosen and Ring prepare and adopt compliance procedures designed to assure that they comply with the basic standards of conduct required of registered broker-dealers in connection with sales of unregistered securities, with such compliance procedures to include procedures that they be supervised by a qualified supervisory person for a period of two years.

In a related matter, the Commission filed a civil injunctive action in the U.S. District Court for the Central District of California seeking a permanent injunction against Ring, Rosen, and 13 others. Simultaneously with the filing of that action, Ring and Rosen, without admitting or denying the allegation of the complaint, consented to the entry of permanent injunction enjoining them from further violation of the registration provisions. (See LR-9214) (Rel. 34-17221)

CIVIL PROCEEDINGS

DIAGNOSTIC DATA INC. ENJOINED

The Commission announced on October 21 the filing of a complaint in the U.S. District Court for the District of Columbia against Diagnostic Data Inc. (DDI) alleging violations of Section 14(a) of the Securities Exchange Act of 1934 and Rule 14a-9 thereunder. DDI simultaneously consented to the entry of a Final Judgment of Permanent Injunction and other equitable relief restraining and enjoining DDI from violations of the proxy rules.

The Commission's complaint alleges that DDI, in connection with the solicitation of proxies by its Board of Directors, made certain materially false and misleading statements regarding an agreement-in-principle it had entered into to license the company's principle product, a drug used in the treatment of arthritis, in the United States. In a letter to shareholders, DDI stated that the value of the agreement was worth \$5 million over the next two years when in fact it contained provisions totaling only \$2.5 million, much of which was contingent upon FDA approval of the drug. The letter further stated that the agreement-in-principle provided for a 10% royalty to DDI, specified minimum purchase quantities and for the exclusive purchase of all of the drug from DDI, when in fact the agreement-in-principle did not contain any of these provisions.

In addition to the entry of the Final Judgment of Permanent Injunction against DDI, the Court ordered DDI to comply with certain undertakings. DDI adjourned its Annual Meeting of Shareholders on October 3, 1980, and agreed to treat as if null and void any proxies solicited on behalf of the Board of Directors and tendered before the date of the Court's order. DDI agreed not to convene its Annual Meeting or any other meeting or vote of shareholders without first resoliciting proxies from its shareholders, agreed to reimburse the dissidents for all expenses of such resolicitation up to \$50,000, and to notify its shareholders of the Commission's action and the facts underlying it. DDI also undertook to adopt, implement and maintain procedures designed to assure compliance with the Commission's proxy rules. (SEC v. Diagnostic Data Inc., U.S.D.C. D.C., Civil Action No. 80-2693). (LR-9206)

COMPLAINT NAMES JEROLD ZUKOR, OTHERS

The Los Angeles Regional Office announced that on October 22 a complaint was filed in the U.S. District Court for the Central District of California against Jerold Zukor, Arnold Poliskin, Murray Zukor, H. George Pollack, Ralph R. Frank, James M. Morse, Arthur Levine, Saul Ring, Jerome E. Rosen, Angela Deane, Ernest Braunstein, William P. Malpezzi, Steven Edmondson, Trio Enterprises, Inc. and Pure-Flow, Inc.

The complaint charges that Jerold Zukor, Poliskin, Murray Zukor, Pollack and Trio violated the registration and antifraud provisions of the securities laws while engaged in a scheme to resurrect Westamerica Automotive Corporation, a public shell corporation, by acquiring control of that company, infusing into the shell some of the assets and operations of Trio, and then causing activity to be generated in the over-the-counter market in Westamerica stock using false and misleading information and manipulative transactions and, after attaining increased market activity thereby, beginning to sell shares of Westamerica held in nominee accounts. The complaint alleges that in connection therewith, Malpezzi, Edmondson, Braunstein, Morse, Levine and Pure-Flow violated the anti-fraud provisions, and Frank, Ring, Rosen and Deane violated the registration provisions.

Simultaneously with the filing of the Commission's complaint, Jerold Zukor, Murray, Trio, Malpezzi, Edmondson, Ring, Rosen and Frank each consented, without admitting or denying any allegations of the complaint, to the entry of final judgments of permanent injunction, and Frank, an attorney, agreed not to practice before the Commission for a period of two years. (SEC v. Jerold Zukor, et al., U.S.D.C. C.D. Cal., Civil Action No. 80-4663-AWT[GX]). (LR-9214) (See 34-17221)

CRIMINAL PROCEEDINGS

RUSSELL E. PHILLIPS, OTHERS SENTENCED

The Chicago Regional Office announced that on August 25, after an eleven month trial, a jury in the U.S. District Court for the Western District of Missouri, convicted Russell E. Phillips of Springfield, Missouri; Quentin Darence Cloninger of Shreveport, Louisiana; Carl L. Bledsoe, Jr. of Memphis, Tennessee; Thomas B. Moffit of California, Missouri; and Ronald J. Stafford of El Dorado, Arkansas of securities fraud, racketeering and conspiracy. The convictions resulted from the activities of the defendants in the sale of the securities of corporations organized as farm cooperatives in Missouri, Oklahoma and Arkansas.

On October 8 the Honorable Warren K. Urbom, Chief Judge of the U.S. District Court for the District of Nebraska, sentenced Phillips to fifteen years imprisonment followed by five years probation and a \$20,000 fine; Bledsoe to ten years imprisonment followed by five years probation and a \$15,000 fine; and Moffitt and Stafford to five years imprisonment followed by five years probation and a \$5,000 fine. The sentencing of Cloninger was continued to another date. (U.S. v. Russell E. Phillips, et al., W.D. of Missouri). (LR-9213)

INVESTMENT COMPANY ACT RELEASES

THE CYPRUS CORPORATION

A notice has been issued giving interested persons until November 17 to request a hearing on an application of The Cyprus Corporation, The RET Income Fund Incorporated (RET), GPM REIT Managers, Inc. (the RET Adviser), Gardner and Preston Moss, Inc. (Gardner), John L. Gardner (Mr. Gardner), Robert F. Birch (Mr. Birch), J. B. Fuqua (Mr. Fuqua), and J. B. Fuqua Foundation, Inc. (the Foundation) (collectively Applicants), for an order: (1) pursuant to Section 17(b) of the Investment Company Act of 1940, exempting from the provisions of Section 17(a) of the Act, in connection with the proposed merger of RET with and into Cyprus, the issuance by Cyprus to Mr. Fuqua and the Foundation shares of its common stock in exchange for shares of common stock of RET, and the issuance by Cyprus to Gardner, Mr. Gardner and Mr. Birch of shares of its common stock and preferred stock in exchange for shares of common stock and preferred stock of RET; and (2) pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, permitting Gardner to sell, and Mr. Fuqua to purchase, 88 percent of the stock of the RET Adviser;

permitting Mr. Fuqua to contribute to Cyprus at no cost to Cyprus, and Cyprus to accept, the assets of the RET Adviser; permitting the RET Adviser to serve as investment adviser to RET during the period between the closing date of the merger and the effective date of the merger; and permitting Gardner to serve as investment adviser to Cyprus following approval of an investment advisory agreement between Gardner and Cyprus. (Rel. IC-11409 - Oct. 22)

NEW HAVEN CORPORATION

An order has been issued on an application filed by New Haven Corporation (Applicant), registered under the Investment Company Act of 1940 as a non-diversified, closed-end, management investment company, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. (Rel. IC-11410 - Oct. 23)

HOLDING COMPANY ACT RELEASES

APPALACHIAN POWER COMPANY

An order has been issued authorizing Appalachian Power Company to issue and sell up to \$80 million of first mortgage bonds and up to 1,600,000 shares of preferred stock. (Rel. 35-21755 - Oct. 21)

COLUMBUS AND SOUTHERN OHIO ELECTRIC COMPANY

A notice has been issued giving interested persons until November 17 to request a hearing on a proposal by Columbus and Southern Ohio Electric Company, subsidiary of American Electric Power Company, Inc., that its short-term borrowing authorization be revised to include additional banks and the issuance and sale of commercial paper. (Rel. 35-21756 - Oct. 22)

CENTRAL AND SOUTH WEST CORPORATION

An order has been issued authorizing Central and South West Corporation (CSW), a registered holding company, and five of its subsidiaries, to change the rate of interest earned by a subsidiary on surplus funds lent to the system money pool to a rate equal to CSW's net cost of external borrowings. (Rel. 35-21757 - Oct. 22)

CENTRAL POWER & LIGHT COMPANY

A notice has been issued giving interested persons until November 18 to request a hearing on a proposal of Central Power & Light Company, subsidiary of Central and South West Corporation, to issue and sell up to \$100 million of first mortgage bonds at competitive bidding. (Rel. 35-21758 - Oct. 22)

PUBLIC SERVICE COMPANY OF OKLAHOMA

An order has been issued approving a proposal by Transok Pipe Line Company, an interstate natural gas transmission pipeline, and Public Service Company of Oklahoma, the parent of Transok and a subsidiary of Central and South West Corporation, whereby Transok proposes to privately place, with a group of institutional investors, up to \$35 million of long-term notes to be unconditionally guaranteed by Public Service Company of Oklahoma. The proceeds of the sale will be used to retire maturing debt and to finance, in part, Transok's 1981 construction program. (Rel. 35-21759 - Oct. 23)

LISTING, DELISTING AND UNLISTED TRADING ACTIONS

UNLISTED TRADING GRANTED

An order has been issued granting the application of the Philadelphia Stock Exchange, Inc. for unlisted trading privileges in the common stock (\$.05 par value) of Computervision Corporation which is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system. (Rel. 34-17239)

UNLISTED TRADING SOUGHT

A notice has been issued giving interested persons until November 13 to comment on the application of the Philadelphia Stock Exchange, Inc. for unlisted trading privileges in the common stock (\$.10 par value) of Patrick Petroleum Co. (Rel. 34-17240)

WITHDRAWAL GRANTED

An order has been issued granting the application of Electronics, Missiles and Communications, Inc. to withdraw its common stock (\$.01-2/3 par value) from listing and registration on the Boston Stock Exchange, Inc. (Rel. 34-17241)

SECURITIES ACT REGISTRATIONS

The following registration statements have been filed with the SEC pursuant to the Securities Act of 1933. The information noted below has been taken from the cover page and the facing sheet of the prospectus and registration statement and will appear as follows: Form; Name, address and phone number (if available) of the issuer of the security; Title and the number or face amount of the securities being offered; Name of the managing underwriter (if applicable); Whether the offering is a rights offering; File number and date filed; Assigned Branch; and whether the registration statement is a New Issue.

- (S-1) COMMODITY VENTURE FUND, c/o Hayden Commodities Corp., 1 Western Union International Plaza, New York, N.Y. 10004 - 15,000 units of limited partnership interest. Underwriter: Shearson Loeb Rhoades Inc. (File 2-69594 - Oct. 23) (Br. 2)
- (S-8) THE FOOTHILL GROUP, INC., 2049 Century Park East, #600, Los Angeles, Cal. 90067 (213) 556-1222 - 93,750 shares of common stock. (File 2-69595 - Oct. 23) (Br. 2)
- (S-8) WHEELABRATOR-FRYE INC., Liberty Lane, Hampton, N.H. 03842 (603) 926-5911 - 952,589 shares of common stock. (File 2-69596 - Oct. 23) (Br. 9)
- (S-14) PATRICK INDUSTRIES, INC., 1800 South 14th St., P.O. Box 638, Elkhart, Ind. 46515 (219) 294-7511 - 295,654 shares of common stock. (File 2-69597 - Oct. 23) (Br. 7)
- (S-14) BEATRICE FOODS CO., Two North La Salle St., Chicago, Ill. 60602 (312) 782-3820 - 9,346,072 shares of common stock. (File 2-69598 - Oct. 23) (Br. 3)
- (S-7) ALABAMA POWER COMPANY, 600 North 18th St., Birmingham, Ala. 35291 (205) 250-1000 - \$100 million of first mortgage bonds. (File 2-69599 - Oct. 23) (Br. 8)
- (S-16) SMITH INTERNATIONAL, INC., 4343 Von Karman Ave., Newport, Beach, Cal. 92660 (714) 952-9000 - 1,800,000 shares of common stock. Underwriter: Morgan Stanley & Co. Incorporated. The company develops, manufactures and markets a broad range of drilling tools and equipment. (File 2-69600 - Oct. 23) (Br. 9)
- (S-16) THE SHERWIN-WILLIAMS COMPANY, 101 Prospect Ave., N.W., Cleveland, Ohio 44115 (216) 566-2480 - 208,370 shares of common stock. The company markets and manufactures paint and related products. (File 2-69602 - Oct. 23) (Br. 9)
- (S-16) NORTON COMPANY, One New Bond St., Worcester, Mass. 01606 (617) 853-1000 - \$60 million of convertible subordinated debentures, due 2005. Underwriter: E. F. Hutton & Company Inc. The company is a producer of abrasive products and diamond drilling, among other things. (File 2-69603 - Oct. 23) (Br. 10)
- (S-7) GULF INTERSTATE COMPANY, 1233 West Loop South, Houston, Tex. 77027 (713) 850-3400 - 825,000 shares of common stock. Underwriter: Shearson Loeb Rhoades Inc. The company provides engineering, consulting and project management services to energy related industries. (File 2-69604 - Oct. 23) (Br. 10 - New Issue)

(S-14) FIRST CITY BANCORP, INC., 100 Cherokee St., N.E., P.O. Box 409, Marietta, Ga. 30061 (404) 424-7777 - \$1,518,240 of 11% subordinated debentures, due 1993 and 200,000 shares of common stock. (File 2-69607 - Oct. 23) (Br. 2 - New Issue)

REGISTRATIONS EFFECTIVE

Oct. 15: Fischback Corp., 2-69378.
 Oct. 16: Bridge Oil Limited, 2-69397; Eagle Corporation Limited, 2-69396; Florida Mutual U.S. Government Securities Fund, Inc., 2-68550; Mony Mortgage Investors, 2-69333; The Municipal Bond Trust, Multi-State Program, Series 5, 2-66200; Pengo Industries, Inc., 2-69453; Swan Resources Limited, 2-69386; USLife Corp., 2-69471.
 Oct. 17: Computer Consoles, Inc., 2-69165; Genstar Limited, 2-69310; National Pacific Real Estate Fund II, 2-66695; Rancho Consultants Realty Fund, 2-68265.
 Oct. 20: The Goldfield Corp., 2-69189.
 Oct. 21: Appalachian Power Co., 2-69217; Computer Consoles, Inc., 2-69061; Electromagnetic Sciences Inc., 2-69299; Hackensack Water Co., 2-69274; Louisiana Power & Light Co., 2-69205; MCI Communications Corp., 2-69415; Macrodyne Industries, Inc., 2-69089; R. I. C. 81, Ltd., 2-69115; Armco, Inc., 2-69571; Shannon Oil & Gas Inc., 2-68369; Texas General Group, Inc., 2-69047.

ACQUISITIONS OF SECURITIES

Companies and individuals must report to the Commission within 10 days on Schedule 13D if after the acquisition of equity securities of a public company their beneficial interest therein exceeds 5%. Persons eligible to use the short form (Schedule 13G) may in lieu of filing a Schedule 13D file a Schedule 13G within forty-five days after the end of the calendar year in which the person became subject to Section 13(d)(1). The following companies or individuals filed Schedule 13D's during the period October 3 - 6, 1980. The number of shares of the security which are beneficially owned, and the number of shares concerning which there is a right to acquire are set forth for each beneficial owner. *Amended Acquisition Reports.

<u>REPORTING COMPANY OR INDIVIDUAL</u>	<u>ISSUER & NUMBER OF SHARES</u>	<u>DATE FILED</u>
* David H. Murdock Murdock Investment Corp. Pacific Holding Corp. International Mining Corp.	Flexi-Van Corporation (NYC) Common Stock - 596,900 shs. (11.33%) Common Stock - 53,061 shs. on conversion of Bonds	10-3-80
* First City Financial Corporation Ltd. (Canada)	Kaufman and Broad, Inc. (Los Angeles, CA) Common Stock - 1,064,000 shs.	10-3-80
Leasco Corporation	Reliance Group, Inc. (NYC) Common Stock - 1,229,500 shs. (19.72%) Common Stock - 270,500 shs. on exercise of option	10-3-80
Westinghouse Electric Corp.	Siliconix Incorporated (Santa Clara, CA) Capital Stock - 355,770 shs. (14.6%)	10-3-80
* Fair Lanes, Inc.	Treadway Companies, Inc. (Paterson, NJ) Common Stock - 325,133 shs. (21.9%)	10-3-80
Donald C. Carter, Individually and Trustee Houghton Co., N.V. (Netherlands Antilles) (Linda Shammah Attar (Uruguay), Sole Shareholder)	United Realty Investors, Inc. (Beverly Hills, CA) Shares of Beneficial Interest - 203,200	10-3-80
* New England Merchants National Bank, Co-Trustee Gerald W. Haas, Co-Trustee Elizabeth E. Williamson Russell G. Williamson, Individually and Co-Trustees	Virginia Chemicals Inc. (Portsmouth, VA) Common Stock - 261,670 shs. (10.1%)	10-3-80

ACQUISITION REPORTS CONT.

William O. Taylor, Individually and Trustee	Affiliated Publications, Inc. (Boston, MA) Common Stock - 1,786,000 shs. (34.6%)	10-6-80
* Princeton/Newport Partners, L.P. GT Associates Sutton Associates	American General Convertible SEcurities, Inc. (Houston, TX) Common Stock - 442,700 shs. (14.21%)	10-6-80
Victor J. Cacciatore Charlotte R. Cacciatore	Amfood Industries, Inc. (Arlington Heights, IL) Common Stock - 99,596 shs. (10.89%) Common Stock - 28,682 shs. on exercise of warrants	10-6-80
* Peter Cundill & Associates, Ltd. (Canada)	Michael Baker Corporation (Beaver, PA) Common Stock - 77,500 shs.	10-6-80
* Life Investors Insurance Company of America	Baldwin & Lyons, Inc. (Indianapolis, IN) Common Stock - 90,120 shs.	10-6-80
Gutmann and Company	Central National Chicago, Corp. (Chicago, IL) Common Stock - 59,000 shs.	10-6-80



NOTICE

Many requests for copies of documents referred to in the SEC News Digest have erroneously been directed to the Government Printing Office. Copies of such documents and of registration statements may be ordered from the Public Reference Section, Securities and Exchange Commission, Washington, D.C. 20549. When you are ordering more than one, we prefer that the documents be listed in alphabetical order to expedite service. The reproduction cost is 10c per page plus postage (\$3.50 minimum); 20c per page plus postage for expedited service (\$5.00 minimum) and 30c per page plus postage for priority service (\$5.00 minimum). Cost estimates are given on request. All other reference material is available in the SEC Docket.

SEC NEWS DIGEST is published daily.

*Subscription rates: \$100.00/yr in U.S. first class mail;
\$125.00 elsewhere.*

SEC DOCKET is published weekly.

*Subscription rates: \$79.00/yr in U.S. first class mail;
\$98.75 elsewhere.*

SEC MONTHLY STATISTICAL REVIEW is published monthly.

*Subscription rates: \$15.00/yr in U.S. first class mail;
\$18.75 elsewhere.*

The News Digest, the Docket, and the Statistical Review are for sale by the superintendent of Documents, Government Printing Office, Washington, D.C. 20402.