

(b) the use of funds received from customers;

(c) the existence of arbitrage opportunities available to his customers; and

(d) the safety of the investment in the securities being offered; and

(5) Induce customers to repose trust and confidence in him, causing such customers to believe that he would deal fairly with them in connection with all purchases of securities.

Accordingly, the Commission finds that the Respondent Wohl willfully violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

**(B) Failure to Supervise**

From early 1976, through October, 1977, Schultz and in several instances, Sacks, were aware of the large position held by Wohl in certain securities in his personal trading account and of the large size and frequency of trades in that account, but made no effort to determine from Wohl the real source of his capital for the purchase of those securities, which capital would have necessitated a financial source far in excess of Wohl's financial capability. Also, Sacks and Schultz failed to supervise their back-office operations personnel so that the transfer of checks made payable to Schultz for the payment of securities purchased by customers of the firm would not be credited, as they were, to Wohl's personal trading account.

Accordingly, the Commission finds that Respondents Sacks and Schultz failed to reasonably supervise persons subject to their supervision with the view to preventing violations of the Securities Act and Exchange Act and the rules and regulations thereunder, such persons having committed violations of said provisions, as more particularly alleged and set forth in paragraphs A (1) through A (5) of Section II of this order.

**REMEDIAL SANCTIONS**

Respondents each have submitted an offer of settlement whereby they consent to the entry of an order imposing certain sanctions on them. Accordingly, IT IS ORDERED that

(1) Respondent Wohl be, and hereby is, barred from association with any broker, dealer, investment adviser or investment company.

(2) Respondent Sacks be, and hereby is, suspended for a period of 30 days from being associated with any broker, dealer, investment adviser or investment company.

(3) The registration of Respondent Schultz with the Commission be suspended for a period of 30 days.

By the Commission.

George A. Fitzsimmons  
Secretary

**SECURITIES EXCHANGE ACT OF 1934  
Release No. 14852**

(S7-687 comment period expires 8/31/78)

Filing and Reporting Requirements Relating to Institutional Investment Managers

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

**SUMMARY:** The Commission announces the adoption of a rule and form governing the reporting requirements of institutional investment managers exercising investment discretion over accounts having in the aggregate more than \$100,000,000 in exchange-traded or NASDAQ-quoted equity securities. Under the rule, as adopted, such managers are required to file a report within 45 days after the end of each calendar year, identifying those securities, the aggregate amounts thereof held, the nature of such investment discretion and any voting authority. The rule and form will implement the institutional investment disclosure program as mandated by Congress and establish the Commission as the central repository for data concerning the influence and impact of institutional investment managers on the securities markets. The Commission is also soliciting comments concerning the usefulness and burdens associated with quarterly reporting.

**EFFECTIVE DATE:** July 31, 1978. Comments by August 31, 1978.

ADDRESSES: Interested persons should submit their views and comments concerning the usefulness and costs associated with quarterly reporting in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-687, and will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C. 20005.

**FOR FURTHER INFORMATION CONTACT:**

Michael S. Lichtenthal, Esq. (202-755-9034) or  
W. Scott Cooper, Esq. (202-755-1792)  
Division of Investment Management,  
Securities and Exchange Commission,  
500 North Capitol Street  
Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission (the "Commission") today announced the adoption of Securities Exchange Act Rule 13f-1 [17 CFR 240.13f-1] and related Form 13F [17 CFR 249.325], pursuant to Section 13(f) of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)] (the "Exchange Act"). The rule and form adopted today differ from the original proposal published for comment on March 30, 1977, in Exchange Act Release No. 13396 [42 FR 16831] in several respects. The modifications reflect the Commission's determination to simplify its approach to implementation of the basic institutional disclosure program mandated by Section 13(f) and are also responsive to certain of the many comments received. In addition, certain technical changes have been made in order to clarify the reporting requirements and to properly coordinate the institutional disclosure program contemplated by Section 13(f) with the beneficial ownership rules under the Exchange Act.

Briefly, under the rule as adopted today, an institutional investment manager exercising investment discretion (as defined in Section 3(a)(35) of the Exchange Act [15 U.S.C. 78(c)(a)(35)]) with respect to accounts having more than \$100,000,000 or more in exchange-traded or NASDAQ-quoted equity securities on the last trading day of any of the twelve months of a calendar year must file annually with the Commission, and, if a bank, with the appropriate banking agency, within 45 days after the last day of such calendar year, five copies of Form 13F. The form requires the reporting of the name of the issuer, and the title, class, CUSIP number, number of shares or principal amount in the case of convertible debt, and aggregate fair market value of each such equity security held. The form also

requires information concerning the nature of investment discretion and voting authority possessed. The rule will implement the basic institutional disclosure program mandated by Congress.

**BACKGROUND**

In July 1968, the Congress directed the Commission to make a study and investigation of the purchase, sale, and holding of securities by institutional investors of all types in order to determine the effect of those activities upon the maintenance of fair and orderly securities markets, the stability of those markets, and the interests of issuers of securities and of the public.<sup>1</sup> In its letter transmitting the Institutional Investor Study Report<sup>2</sup> to Congress in April 1971, the Commission cited "gaps in information about the purchase, sale and holdings of securities by major classes of institutional investors," and recommended that the Exchange Act be amended to provide the Commission with general authority to require, on a continuous basis, reports and disclosure of securities holdings and transactions from all types of institutional investors. Other recommendations for improved disclosure were made by the President's Commission on Financial Structure and Regulation (1971) and by the Senate Subcommittee on Securities in its 1973 "Securities Industry Study."<sup>3</sup>

In 1975, as part of the Securities Acts Amendments of 1975, Congress adopted Section 13(f) of the Exchange Act. The reporting system required by Section 13(f) is intended to create in the Commission a central repository of historical and current data about the investment activities of institutional investment managers, and thereby to advance certain objectives. First, the reporting system is designed to improve the body of factual data available and thus facilitate consideration of the influence and impact of institutional investment managers on the securities markets and the public policy implications of that influence. Second, by making the Commission responsible for all gathering, processing, and dissemination of the data, Congress

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<sup>1</sup> The study was conducted pursuant to Section 19(a) of the Exchange Act (Pub. L. 90-438, amended by 91-410, September 25, 1970) [15 U.S.C. 78s(a)].

<sup>2</sup> H.R. Doc. No. 64, 92d Cong., 1st Sess. 1971.

<sup>3</sup> Report of the Senate Subcommittee on Securities, Committee on Banking, Housing, and Urban Affairs, 93d Cong., 1st Sess. (Comm. Print 1973).

intended to permit establishment of uniform reporting standards and a uniform centralized data base.<sup>4</sup>

Section 13(f) of the Exchange Act empowers the Commission to adopt rules which would create a reporting and disclosure system to collect specific information concerning Section 13(d)(1) [15 U.S.C. 78m(d)(1)]<sup>5</sup> equity securities held in accounts over which certain institutional investment managers exercise investment discretion. It gives the Commission broad rulemaking authority to determine the size of the institutions required to file reports, the format and frequency of the reporting requirements, and the information to be disclosed in each report. The statute directs the Commission to make available to the public, for a reasonable fee, a list of all equity securities described in Section 13(d)(1) of the Exchange Act and to disseminate to the public the information contained in the reports. The Commission is also directed to consult with other regulatory agencies to attempt to achieve uniform, nonduplicative reporting by, and minimize the compliance burden on, institutional investment managers.

As stated above, on March 30, 1977, the Commission published for comment proposed Rule 13f-1 and related Form 13F. As proposed, the rules would have required institutional investment managers exercising investment discretion over accounts holding in the aggregate at least \$100,000,000 of certain equity securities, designated "Section 13(f) securities," to file a Form 13F on a quarterly basis to report certain information regarding those accounts. "Section 13(f) securities" would have been defined to include all classes of securities described in Section 13(d)(1) of the Exchange Act that are listed on a national securities exchange or quoted on the automated quotation system of a registered association (e.g., the NASDAQ system) and that are contained in the most recent list of Section 13(f) securities published by the Commission.

Under the proposed rule an institutional investment manager would have been deemed to exercise invest-

ment discretion over an account not only when it had the power described in Section 3(a)(35) of the Exchange Act (which defines investment discretion) [15 U.S.C. 78(c)(a)(35)] but also when it was deemed to be the "beneficial owner" of the securities in the account under Section 13(d) of the Exchange Act.<sup>6</sup>

Proposed Form 13F would have consisted of two schedules. Schedule A would have required the reporting of the aggregate fair market value of all types of securities, including exempted securities, held by the accounts over which the manager exercises investment discretion, broken down by type of account. Schedule B would have required information as to the number of shares and fair market value of each issue of Section 13(f) securities held by each type of account, as well as the institutional investment manager's voting authority with respect to such securities. Information about holdings of less than 10,000 shares or \$200,000 would not have been required to be reported except in the aggregate on Schedule A.

#### REVISION OF THE PROPOSED RULE

In publishing the proposed rule for comment, the Commission recognized that a reporting system such as the one envisioned by Section 13(f) could involve significant costs to institutional investors, as well as unforeseen complications. Therefore, the Commission sought views "not only on the specific proposals set forth, but also on how the Commission can best implement 13(f)." Specifically, the release posed ten questions designed to elicit comment about the proper scope of the institutional disclosure program. Topics covered by the questions included the desirability of collecting additional information as authorized by Section 13(f) (such as detailed information about securities not traded on an exchange or reported on NASDAQ, transactional data, and aggregate purchases and sales); the frequency of reporting; the appropriateness and importance of reporting by type of account; and the \$100,000,000 reporting threshold.

The Commission received approximately 70 letters of comment on the rule proposal, mostly from those who would be directly affected. The Commission also consulted with numerous other governmental agencies as mandated by the statute. After careful consideration of all comments, and after careful reexamination of the program in light of the fundamental objectives of the legislation and the anticipated uses for the data to be collected, the Commission decided to simplify the program. As adopted, Rule 13f-1 will implement the basic institutional disclosure program mandated by

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<sup>4</sup> See, Report of the Senate Committee on Banking, Housing, and Urban Affairs (Senate Report No. 75, 94th Cong., 1st Sess. 85 (1975)).

<sup>5</sup> Any equity security of a class which is registered pursuant to Section 12 of the Exchange Act [15 U.S.C. 78l], or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in Section 12(g)(2)(G) of the Exchange Act, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.].

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<sup>6</sup> Rule 13d-3 [17 CFR 240.13d-3] defines beneficial owner for purposes of Section 13(d).

Congress, and allow the Commission, and those affected by and interested in the program, to gain experience with its operation before any final decisions are reached on the ultimate scope of the program. Following is a summary of the comments and explanation of the changes in the rule under topic headings which correspond generally to the major subjects covered by the ten questions posed in Exchange Act Release No. 13396.

*Basic coverage of the rule: reporting threshold and frequency and content of reports*

Many commentators asserted that compliance with the program would be expensive and burdensome and argued that, at least initially, the reports should be made as simple as possible. Most favored reporting annually rather than quarterly, eliminating reporting by type of account, and leaving the reporting threshold at \$100,000,000.

The Commission has determined that it is appropriate at this time to impose only that reporting burden which is necessary to satisfy the statutory requirement that the Commission establish a centrally located, and publicly disclosed, body of information about the extent of holdings by major institutions of equity securities of publicly held companies which have significant markets. The Commission believes that this objective will be achieved if investment managers of accounts containing \$100,000,000 or more of exchange-traded and NASDAQ-quoted securities file annual reports identifying their holdings of those securities. As the Commission, reporting entities, and persons interested in the information reported gain experience with the system, the Commission will be in a better position to evaluate the need for or interest in expanding the reporting group, increasing the frequency of reports, and collecting additional information.

*Steps Taken to Avoid Duplicative Reporting*

The release publishing the original proposal also solicited comments on possible steps which could be taken to avoid unnecessary duplicative reporting by, and minimize the compliance burden on, institutional investment managers. A large number of comment letters alluded to the fact that duplicative reporting would exist under the proposed rule and the beneficial ownership rules under Section 13(d) of the Exchange Act.<sup>7</sup> Many commentators argued that the proposed

rule would result in unnecessary duplicative reporting to government agencies. Banks pointed out that they file similar reports with the Comptroller of the Currency; insurance companies indicated that they file with state regulatory agencies; and investment advisers stated that investment companies they manage, which are registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], are required to file quarterly reports with respect to their securities holdings.

*Consultation with other Government Agencies.* Section 13(f) as noted above, required extensive consultation with other federal and state agencies that have the authority to require reports of a similar nature to those that might be required under Section 13(f). The Commission and other agencies have made extensive efforts to avoid unnecessary duplication, but, nevertheless, there will remain significant overlaps in reporting. Many agencies which collect information about institutional securities holdings have found that they have been unable to eliminate reporting requirements because their reports are designed to meet particular needs. The reason lies in the fact that each agency that collects related data has a perceived independent regulatory reason for collection and has a population from which it collects information which is broader than the group within the scope of Section 13(f). Furthermore, generally, except with respect to the Trust Department Report Form which is filed with the federal banking agencies and reports subject to the Comptroller of the Currency's reporting requirements set forth in §9.102 of Regulation 9 [12 CFR 9.102, 39 FR 28144], there is little overlap with 13(f), because the primary interest of many other regulators is in who controls regulated entities and not investment discretion. Since the Trust Department Report Form collects information which is different from that which would be collected under Rule 13f-1, the banking agencies have concluded that receipt of the latter would not permit elimination of the former. However, the Comptroller of the Currency has announced the elimination of its quarterly report of equity securities transaction (form CC-7510-04) effective after the third quarter of this year, and also the elimination of its annual report of holdings of equity securities (Form CC9g510-05).

*Coordination of the reporting requirements under Sections 13(f) and 13(d).* As mentioned above, many commentators indicated that duplicative reporting would exist under Sections 13(f) and 13(d). They pointed out that the overlap would occur principally because the definition of investment discretion in proposed Rule 13f-1 included the concept of beneficial ownership under Section 13(d), and the definition of beneficial ownership under Section 13(d) included the concept of investment power. Therefore, an institutional investment manager with a portfolio of Section 13(f) securi-

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<sup>7</sup> Generally, Section 13(d) requires a report by any person (or group of persons) who, as a result of an acquisition, becomes the beneficial owner of more than five percent of certain classes of equity securities of certain issuers.

ties exceeding \$100,000,000 whose accounts acquired more than a five percent interest in a class of securities of an issuer would be subject to the reporting requirements under both Sections 13(f) and 13(d).

The Commission included "beneficial ownership" in the definition of investment discretion in the proposed rule in an effort to minimize the burden on institutions which might be required to report under both Section 13(d) and Section 13(f). However, many commentators perceived problems with this approach, and the Commission has determined that it is unnecessary to augment the statutory definition in Section 13(f). Accordingly, the concept of beneficial ownership has been deleted from the rule as adopted.

Many commentators discussed the overlap between Sections 13(d) and (g),<sup>8</sup> and it was concluded variously that those who filed under Section 13(d) should be exempted from Section 13(f); those who reported under Section 13(f) should be exempted from Section 13(d); or that Section 13(f) should serve as the exclusive reporting obligation for institutional investors disclaiming any intention of investing for purposes of influencing control or management. Section 13(f) and the beneficial ownership reporting requirements have different purposes, and it is not possible to eliminate all overlap by making one or the other exclusive. However, the Commission has attempted to make the requirements compatible to the extent possible. Accordingly, the requirements of Schedule 13G, the newly adopted "short form" beneficial ownership reporting form for certain institutions<sup>9</sup> may be partially satisfied by attaching pertinent information from Form 13F.

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<sup>8</sup> After Rule 13f-1 was proposed for comment, Congress adopted the Domestic and Foreign Investment Improved Disclosure Act of 1977 [Title II of Pub. L. 95-213]. Among other things, this legislation added new Section 13(g) to the Exchange Act which modifies and supplements the existing beneficial ownership requirements of Section 13(d).

<sup>9</sup> On April 21, 1978, the Commission announced the amendment of beneficial ownership rules under Section 13(d) and Schedule 13D [17 CFR 240.13d-101] which were adopted on February 24, 1977, and scheduled to take effect on April 30, 1978, as well as a new Schedule 13G and the rescission of Form 13D-5 [17 CFR 240.13d-102]. Proposed Schedule 13G would correspond to former Form 13D-5. However, certain substantive changes have been made in order to achieve a more satisfactory balancing of the costs and benefits attendant to the disclosure elicited thereunder, and insurance companies would now be eligible to use the form [See Exchange Act Release No. 14692].

Since applicable portions of Form 13F could be attached in partial satisfaction of Schedule 13G, the Commission has decided to conform the filing requirements of Form 13F to those of Schedule 13G. Therefore, Form 13F will be required to report holdings as of the last day of the year and to be filed 45 days thereafter.<sup>10</sup> The extension of the time for filing from 30 days to 45 days is consistent with the views of a number of commentators who indicated that the 30 day filing requirement created an undue burden.

As proposed, and as adopted today, Rule 13f-1 states that "an institutional investment manager shall also be deemed to exercise 'investment discretion' with respect to all accounts over which any person under its control exercises investment discretion." A few commentators recommended that a bank trust department consistently exercising investment discretion with no interference from its holding company be excepted from this provision and be treated independently both for purposes of applying the \$100 million jurisdictional test and the filing requirements. They reasoned that the bank trust department is the entity responsible *in fact* for exercising investment discretion. However, the Commission has determined not to amend that portion of the rule proposal, and, therefore, not to except bank trust departments from the rule's applicability, for two reasons. First, this requirement is consistent with the approach taken in the beneficial ownership rules and proposed rules under Sections 13(d) and 13(g) which facilitates coordination of the various reporting requirements. If Rule 13f-1 did not require reporting by control persons and the beneficial ownership reporting requirements did, information in Form 13F reports would in many cases not be usable by an institutional manager in partially fulfilling its obligations under 13(d) and 13(g).<sup>11</sup> Second, taking the position that control persons exercise discretion with respect to securities which may be under the direct management of controlled persons is more realistic and more consistent with the purposes of the institutional disclosure legislation. With respect to bank holding companies, it

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<sup>10</sup> It should be noted that, if beneficial ownership exceeds ten percent as of the last day of any month during the year, a Schedule 13G would also be required to be filed within 10 days after the first such month.

<sup>11</sup> Elimination of "beneficial ownership" from the definition of "investment discretion" in Rule 13f-1 does not affect the usefulness of Form 13F for purposes of reporting beneficial ownership. To the extent an institutional investment manager was required to report beneficial ownership securities, and 13F report as to those securities might still partially fulfill its reporting requirement.

appears to the Commission that, although a bank trust department may manage its portfolio independently of the holding company's influence most of the time, ultimately the holding company has control over the trust department's personnel as well as its entire organizational structure. To clarify these points, the Commission has added an instruction to Form 13F which indicates that controlling and controlled companies (such as bank holding companies and their subsidiaries) shall report their investment discretion as shared (See Special Instruction v (Item 6) of Form 13F). When two institutional investment managers share discretion as to certain securities, one must report for both, and the other must file a statement identifying who is filing for it.<sup>12</sup>

*Technical Modifications.* The rule, as originally published for comment, contained an instruction providing a de minimis exemption for aggregate holdings of fewer than 10,000 shares or less than \$200,000 principal amount or fair market value. A holding of fewer than 10,000 shares may have a market value in excess of \$200,000, and therefore have the potential to impact upon the market. Consequently, the Commission has made the de minimis exemption available only for holdings of fewer than 10,000 shares and less than \$200,000 principal amount and fair market value.

As published for comment, Rule 13f-1(c) stated that if "a person controls the issuer of a class of equity securities described in Section 13(d)(1) of the Exchange Act, that security shall be deemed not to be a 'Section 13(f) security' with respect to the controlling person." The purpose of including such an exemptive provision in the rule was to insure that large multitiered companies, or holding companies controlling certain public corporations, would not be required to report if the stock of the issuer which it controlled was exchange-traded or NASDAQ-quoted and worth over \$100 million. It was felt that the rule was not meant to cover such parent-subsidiary relationships. However, an institutional investment manager, otherwise required to report because it exercises investment discretion over exchange-traded or NASDAQ-quoted equity securities worth over \$100 million, could also have significant holdings in a particular company, and thereby control it. The Commission does not believe that such significant holdings were meant to be excluded from the

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<sup>12</sup> Item 6 of Form 13F, as well as Special Instructions iv and v, while not included in the original rule as published for comment, clarify that institutional investors, reporting on behalf of others with whom investment discretion is shared, must segregate the shares of each such institutional investor on whose behalf the report is filed. See, OPERATION OF THE RULE.

reporting requirements altogether. Therefore, the rule has been modified to require that an institutional investment manager, otherwise required to report, must include in its reports the shares of an issuer which it controls.

A number of commentators stated that General Instruction B to proposed Form 13F ought to be clarified to indicate which institutional investment manager is responsible to report where two or more managers exercise investment discretion with respect to the same account. Under that instruction, only one institutional investment manager is to file a report with respect to such an account. Therefore, for example, it would be possible for an investment adviser, meeting the jurisdictional test itself, to report for all of the investment companies it manages, or any investment company with over \$100 million in 13(f) securities to report itself. To minimize the reporting burden, the Commission believes that such affiliated institutional investors should be permitted flexibility to file either one report through their investment adviser, or to file separately. Therefore, although General Instruction B has not been changed, several "Special Instructions" have been added to the Form which should serve to clarify the relationships between affiliated institutional investment managers and the Section 13(f) securities reported on Form 13F. (See OPERATION OF THE RULE).

*Exemptions.* Another area in which the Commission sought specific comment was whether it would be consistent with the purposes of Section 13(f) for the Commission to exempt from the requirements of that section institutional investment managers exercising investment discretion outside the United States with respect to accounts held outside the United States. As proposed, the rule contained no such exemption. The Commission received a number of letters from commentators taking the position that such managers should properly be exempt since it would be very burdensome and expensive to collect information concerning such accounts, and since such information would not, in general, significantly affect the data reported concerning United States accounts. In that regard, it was suggested by one commentator that the rule contain a de minimis exemption for managers having a very small percentage of their business with foreign accounts. The Commission also received a number of comments indicating that it would not be appropriate to exempt managers from reporting information concerning such foreign accounts when such accounts are comprised of United States securities, since investments by such accounts may have an impact upon United States markets. The Commission agrees with the latter view and has determined not to exempt such accounts as a class. It should be noted, however, that Section 13(f)(2) provides that the Commission may by rule or order exempt any institu-

tional manager or security individually from any or all provisions of the section or the rules thereunder under the proper circumstances.

Several commentators indicated that college endowment funds and other non-profit institutions should be exempt from the reporting requirements under Section 13(f). They reasoned that such institutions are already burdened with numerous government reports and that the value of the information which would be collected from such institutions would be minimal since very few would be directly affected. The Commission has determined not to exempt such institutions from the reporting requirements under 13(f) because the Commission believes that any such institution holding sufficient Section 13(f) securities to meet the threshold reporting requirements under the rule would have the same potential to impact upon the market as other large institutional investors. Further, in light of the revisions made to the original proposal, the Commission does not believe that the reporting requirements would impose an onerous burden on the affected organizations.

*Data Availability.* The release publishing Rule 13f-1 for comment also solicited views on whether reports should be required to be filed in machine processable form, such as computer cards. Most commentators were against such a requirement since it would be particularly burdensome for those without computer capability; others suggested computer tape, and others preferred to have an option. In light of those comments, and since it would be difficult to obtain tape in a form compatible with its own computer system, the Commission has determined that it would be preferable to receive reports in hard copy form. This would also enable the Commission to fulfill its obligation to make the reports conveniently available "promptly after filing."<sup>13</sup>

The Commission sought public comment concerning useful methods of public dissemination to investors, issuers, and other institutional investment managers. Several commentators suggested computerizing the information and making tapes or discs available to the public at cost. A few commentators indicated that the information should be published in the Commission's Digest and/or Statistical Bulletin. Comments were also received from a few vendors who felt that the Commission should leave the task of dissemination to competing outside firms which would publish the data for sale to the public.

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<sup>13</sup> Section 13(f)(3) directs the Commission to tabulate the information contained in the reports and make it available to the public conveniently and promptly.

The Commission intends to make the reports which are filed immediately available to the public at the Commission's Public Reference Room, 1100 L Street, Washington, D.C. 20549. In addition, approximately 60 days after the forms are filed, the Commission intends to produce reports which will provide (1) a list of institutions showing what securities each exercises investment discretion or voting authority over, and (2) a list of exchange-traded and NASDAQ-quoted securities, showing what institution exercises discretion and voting authority over what amount (i.e., the Commission will identify the securities over which a particular institution exercises investment discretion and the institutions which exercise investment discretion and have voting authority over the securities of a specified corporation). The Commission will continually review the methods utilized to disseminate the data to the public in an effort to insure that the information is readily accessible.

#### OPERATION OF THE RULE

The following discussion is included in order to assist all interested persons in their understanding of and compliance with the filing and disclosure provisions of Rule 13f-1 and related Form 13F adopted herein. However, attention is directed to the actual text of the rule and form for a more complete understanding. To illustrate the rule's operation, the following discussion examines its applicability to an investment adviser exercising investment discretion with respect to accounts having more than \$100,000,000 in Section 13(f) securities.

Under the rule, an investment adviser exercising investment discretion with respect to accounts having more than \$100,000,000 in Section 13(f) securities at the end of a month would be required to file Form 13F with the Commission containing information relating to those accounts. In addition, if one of those accounts contained more than \$100,000,000 in Section 13(f) securities itself, and the account was other than a natural person, that account (e.g., an investment company) would also be subject to the rule's reporting requirements. In such a case, the instructions indicate that either the adviser or the investment company could file with respect to the securities in such account, but not both. If the investment adviser were to file on behalf of the investment company account it would indicate on the cover page of the form the name and 13(f) file number (which will be assigned after the first reports are filed) of the investment company on whose behalf it is filing. At the same time the investment company whose securities are reported by the investment adviser would file an information statement naming the entity reporting on its behalf.

With respect to the reporting of information as to those accounts of the investment adviser having less than

\$100,000,000 in Section 13(f) securities, and as to which the investment adviser has sole investment discretion, the information would be aggregated, and each security would be separately listed, including the name of the issuer, title and class, CUSIP number, fair market value, number of shares and type of voting authority.<sup>14</sup>

If the investment adviser were to report on behalf of an investment company, or any other institutional investment manager with whom there is shared investment discretion (See Special Instruction iv), additional segregations would be necessary. This would be the case whether or not the investment company had assets valued at \$100,000,000 or more. For example, an investment adviser might report on one line that it has sole investment discretion with respect to 1,000 shares of XYZ stock (in the aggregate). The investment adviser might report on the next line that it has shared investment discretion (Item 6(b)) with an investment company with respect to 2,500 shares of XYZ stock (in such case it would name the investment company on the cover page if it was reporting on its behalf, and place the number from the cover page in response to Item 7). On the next line, the investment adviser might report, in response to Item 6(c), that it has shared investment discretion with another investment adviser (which adviser has less than \$100,000,000 under management) with respect to another 3,000 shares of XYZ stock.<sup>15</sup> In all of the above cases responses to Items 4-8 would be set forth separately (Special Instructions iv and v). The foregoing examples would also be applicable to other situations. (See special Instruction v (Item 6)).

#### AVAILABILITY OF LIST OF 13(f) SECURITIES

Pursuant to Section 13(f)(3) of the Exchange Act, the Commission intends to publish a list of Section 13(f) securities in order to facilitate a determination by an institution as to whether it is required to report under the rule. This list will normally be available to anyone for a reasonable fee from the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 15 days after the end of the calendar year. However, for the year 1978, a list will be available as soon as possible after the effective date of the rule in

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<sup>14</sup> If there is sole voting authority with respect to certain shares, and shared authority with respect to others, the number of each such shares would be set forth separately under Item 8.

<sup>15</sup> In such case it would not have to respond to Item 7 because it would not be reporting on behalf of that adviser since that adviser does not meet the threshold reporting requirements.

order to provide adequate lead time for institutions affected by the rule to program their computers. A final list for the 1978 calendar year will be available within 15 days after the end of the calendar year.

#### REQUEST FOR COMMENT

Virtually all the responses to the Commission's request in Release No. 34-13396 for public views on the frequency of reports were in favor of annual rather than quarterly reporting. However, quite recently the Commission has received several letters arguing in favor of quarterly rather than annual reporting. These commentators have pointed to the fact that quarterly data would provide information to brokers and institutional trading desks to facilitate the function of block trading and enhance the liquidity of the marketplace. They have also stated that quarterly reporting would provide more complete information to corporations concerning their stockholdings since annual reports would rapidly become outdated. On the other hand, many of those commenting on the original proposal indicated that quarterly reporting would be overly burdensome. Since the original proposal was based on a different and more complex form, the Commission believes that interested persons should have the opportunity to comment on the usefulness of quarterly reporting of the information to be collected on the more simplified form the Commission is now adopting, as well as the burdens and costs associated therewith.<sup>16</sup> With respect to costs, the Commission would appreciate detailed information on direct and indirect costs, and start-up costs and continuing costs. In addition to comments on the merits of annual as opposed to more frequent reporting, the Commission requests comment on whether a change in the frequency of reporting, if any, should be made for the first calendar quarter of 1979 or should be delayed until after experience has been gained with the operation of the rule. All interested persons are invited to submit their written views to the Commission by August 31, 1978.

#### CERTAIN FINDINGS

As required by Section 23(a)(2) of the Exchange Act [15 U.S.C. 78w(a)(2)], the Commission has considered the impact which the rule and form adopted herein would have on competition. The Commission has found that the preparation and disclosure of information pursuant to Rule 13f-1 will not significantly burden competition.

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<sup>16</sup> The Commission will also give attention to the relationship of the quarterly reports on Form N-1Q filed by investment companies under the Investment Company Act of 1940 [17 CFR 274.106] to the institutional investor disclosure program.



Furthermore, the Commission has determined that any possible resulting competitive burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of this information to investors.

As mandated by Section 13(f)(4), in exercising its authority under Section 13(f) the Commission has determined that its action is appropriate in the public interest and for the protection of investors. In the release publishing proposed Rule 13f-1 for comment the Commission specifically invited comments as to the steps the Commission could take to minimize the compliance burden. As explained above, a number of revisions have been made to reduce the burden on institutional investors. The Commission finds that the cost of the rules adopted herein are not unreasonable in light of the purposes of the statute.

#### AUTHORITY; EFFECTIVE DATE

The Commission hereby adopts Rule 13f-1 and Form 13F, effective July 31, 1978, pursuant to the authority set forth in Sections 3(b), 13(f) and 23 of the Exchange Act [15 U.S.C. 78c(b), 78m(f) and 78w]. The Commission finds that any changes in the rule and form adopted from those published in Release No. 34-13396 [42 FR 16381] are either technical in nature or are less burdensome than previous requirements, so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act [5 U.S.C. 553 et seq.] are not necessary. However, the Commission has decided to submit this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act [44 U.S.C. 3512]. The effective date of this rule accordingly reflects inclusion of the 45-day period which that statute allows for such review [44 U.S.C. 3512(c)(2)].

Accordingly, Parts 240 and 249 of Title 17 of the Code of Federal Regulations are amended by adding §§240.13f-1 and 249.325 as follows.

By the Commission.

George A. Fitzsimmons  
Secretary

§240.13f-1 Reporting by institutional investment managers of information with respect to accounts over which they exercise investment discretion.

22/SEC DOCKET

(a) Every institutional investment manager which exercises investment discretion with respect to accounts holding section 13(f) securities, as defined in paragraph (c) of this section, having an aggregate fair market value on the last trading day of any month of any calendar year of at least \$100,000,000 shall file a report on Form 13F [§249.325 of this chapter] with the Commission within 45 days after the last day of such calendar year.

(b) For the purposes of this rule, "investment discretion" has the meaning set forth in section 3(a)(35) of the Act [15 U.S.C. 78c(a)(35)]. An institutional investment manager shall also be deemed to exercise "investment discretion" with respect to all accounts over which any person under its control exercises investment discretion.

(c) For purposes of this rule "section 13(f) securities" shall mean equity securities of a class described in section 13(d)(1) of the Act that are admitted to trading on a national securities exchange or quoted on the automated quotation system of a registered securities association. In determining what classes of securities are section 13(f) securities, an institutional investment manager may rely on the most recent list of such securities published by the Commission pursuant to section 13(f)(3) of the Act [15 U.S.C. 78m(f)(3)]. Only securities of a class on such list shall be counted in determining whether an institutional investment manager must file a report under this rule [240.13f-1(a)] and only those securities shall be reported in such report. Where a person controls the issuer of a class of equity securities which are "section 13(f) securities" as defined in this rule, those securities shall not be deemed to be "section 13(f) securities" with respect to the controlling person, provided that such person does not otherwise exercise investment discretion with respect to accounts with fair market value of at least \$100,000,000 within the meaning of paragraph (a) of this section.

§249.325 Form 13F, report of institutional investment manager pursuant to section 13(f) of the Securities Exchange Act of 1934.

This form shall be used by institutional investment managers which are required to furnish reports pursuant to section 13(f) of the Securities Exchange Act of 1934. [15 U.S.C. 78m(f)] and Rule 13f-1 thereunder [§240.13f-1 of this Chapter].

*Form 13F For Reports of Institutional Investment Managers Pursuant to Section 13(f) of the Securities Exchange Act of 1934 and Rule 13f-1 thereunder.*

#### GENERAL INSTRUCTIONS

A. *Rule as to Use of Form 13F.* Form 13F shall be used for reports of institutional investment managers

("Managers") required to be filed by section 13(f) of the Securities Exchange Act of 1934 [15 U.S.C. 78m(f)] and Rule 13f-1 [17 CFR 240.13f-1] thereunder.

**B. Rules to Prevent Duplicative Reporting.** If two or more Managers, each of which is required by Rule 13f-1 to file a report on Form 13F for the reporting period, exercise investment discretion with respect to the same securities, only one such Manager shall include information regarding such securities in its reports on Form 13F. Such Manager shall name any other Manager with respect to which the filing is made in the manner described in Special Instruction i. Any Manager having any securities over which it exercises investment discretion reported by another Manager or Managers shall file a cover page and a separate page indicating the name of the entity or entities reporting on its behalf. If such other Manager or Managers report for only part of the securities with respect to which a Manager has investment discretion, the Manager shall complete the form with respect to securities not otherwise reported.

**C. Filing of Form 13F.** Five copies of Form 13F shall be filed with the Commission within 45 days after the end of the calendar year 1978 and each calendar year thereafter. As required by section 13(f)(4) of the Act, a Manager which is a bank, the deposits of which are insured in accordance with the Federal Deposit Insurance Act, shall file with the appropriate regulatory agency a copy of every report filed with the Commission pursuant to this subsection by or with respect to such bank. The appropriate regulatory agency with which a copy of this report is to be filed for:

(1) a national bank or a subsidiary of any bank or bank operating under the Code of Law for the District of Columbia or a subsidiary of any such bank is the Office of the Comptroller of the Currency, Administrator of National Banks, Washington, D.C. 20219;

(2) a state member bank of the Federal Reserve System or a subsidiary of any such bank or a bank holding company which is a bank (other than a bank which is required to file with the Comptroller of the Currency or the Federal Deposit Insurance Corporation) is the Board of Governors of the Federal Reserve System, Washington, D.C. 20551;

(3) a bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member bank of the Federal Reserve System) or a subsidiary thereof is the Federal Deposit Insurance Corporation, Washington, D.C. 20429.

**D. Confidentiality.** Pursuant to section 13(f)(3) of the Act [15 U.S.C. 78m(f)(3)], the Commission shall not disclose to the public information identifying the securities held by the account of a natural person or an estate or trust (other than a business trust or investment company). Therefore, a Manager shall submit a separate statement clearly identifying that information with reference to the appropriate Item and name of issuer, title, class and CUSIP number, including suffix and check digit.

In addition, the Commission may, as it determines necessary or appropriate in the public interest, delay or prevent public disclosure of any information filed under section 13(f) of the Act, in accordance with section 552 of Title 5, United States Code [5 U.S.C. 552]. Requests for delay or prevention of public disclosure should identify clearly the information for which the request is made, as well as the provision(s) of section 552 of Title 5, United States Code, upon which the request is based and should include a statement setting forth the request and the reasons for the applicability of such provision(s).

**E. List of 13(f) Securities.** The list of 13(f) securities can be obtained at a reasonable fee from the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

#### SPECIAL INSTRUCTIONS

i. If this form is used to report with respect to more than one Manager, the list of all such Managers (other than the one filing this form) required to be on the cover page shall be in alphabetical order and numbered consecutively.

ii. In calculating fair market value, use the value on the last trading day of the calendar year. Values may be rounded to the nearest one thousand dollars.

iii. The Manager filing the report must report holdings of all classes of securities appearing in the most recently published list of section 13(f) securities, except that holdings of fewer than 10,000 shares (or less than \$200,000 principal amount in the case of convertible debt securities) and less than \$200,000 aggregate fair market value (and option holdings to purchase only such amounts) need not be reported.

Holdings of options must be reported only if the options themselves are section 13(f) securities. For purposes of the \$100,000,000 reporting threshold, only the value of such

options should be considered, not the value of the underlying shares. However, the responses to Items 1-5 and 7-8 shall be given in terms of the securities underlying the options, not the options themselves. Item 6 shall be answered in terms of the discretion to exercise the option. A separate segregation in respect of securities underlying options shall be made in response to each of the items, coupled with a designation "(p)" or "(c)" following such segregated response to Item 5, referring to securities subject respectively to put and call options. No response to Item 8 need be given for securities subject to reported call options.

iv. In responding to Items 4-8, list securities of the same issuer and class with respect to which the Manager exercises sole investment discretion separately from those with respect to which investment discretion is shared. The instructions for Item 6 describe in detail how to report shared investment discretion.

v. Instructions for each Item.

*Item 1.* Give the name of the issuer for each class of security reported as it appears in the current list of section 13(f) securities published by the Commission.

*Item 2.* Give the title of class of the security reported as it appears in the current list of section 13(f) securities published by the Commission.

*Item 3.* Give the 6-digit issuer CUSIP number, the 2-digit issue number suffix, and the 1-digit check digit.

*Item 4.* Give the market value of the holding of the particular class of security as prescribed by Special Instruction ii.

*Item 5.* Give the total number of shares of a class of security or the principal amount of such class.

*Item 6.* This item requires the report of holdings of securities of a class to be segregated according to the nature of the investment discretion which may be exercised as to such securities. Accordingly, unless the reporting manager exercises sole investment discretion with respect to all such securities, do not report as to such securities in the aggregate, but divide the report as to such securities in the manner described below.

1. Segregate aggregate shares as to which sole investment discretion is exercised, and report them on one line. Check column 6(a).

2. Then segregate shares as to which investment discretion is shared in the manner described below:

(1) controlling and controlled companies (such as bank holding companies and their subsidiaries);

(2) investment advisers and investment companies advised by them; and

(3) insurance companies and their separate accounts.

3. Further segregate shares as to which investment discretion is shared in the manner described in the preceding instruction to separately identify each instance in which investment discretion is shared with another manager on behalf of whom this report is filed. Report each such instance on separate lines, and check column 6(b) in each case (see instructions for Item 7). On a separate line report in the aggregate shares as to which investment discretion is shared in the manner described in the preceding instruction with any other person, and check column 6(b).

4. Follow the procedure described in the preceding instruction for reporting instance in which investment discretion is shared in a manner other than that described in 2 above (a 6(c) response).

*Item 7.* The reporting Manager shall identify those other Managers on whose behalf this report is being filed in this column by filling in the number assigned to such Manager on the cover page (not its name or 13F file number). This number shall appear, in this column, opposite the segregated responses to Items 4, 5 and 8 (and the relevant indication of shared discretion set forth in Item 6) as required by the preceding instruction. No other names or numbers should be placed in Item 7.

*Item 8.* The Manager shall report the number of shares for which the Manager exercises sole, shared, or no voting authority. Where the Manager exercises sole voting authority over specified "routine" matters and no authority to vote in "non-routine" issues, it is deemed for this report to have no

voting authority. "Non-routine" issues would include a contested election of directors, a merger, a sale of substantially all the assets, a change in the articles of incorporation affecting the rights of shareholders or a change in fundamental investment policy; while "routine" issues would include selection of an accountant, uncontested election of directors, or approval of an annual report. If voting authority is shared only in a manner similar

to a sharing of investment discretion which would call for a response under Item 6(b), then do not report voting authority as "shared", but rather as "sole".

*Column Totals.* The Manager shall report a column total for Item 4 only. A total shall be given for each page and an aggregate total at the end of the report.

**FORM 13F**

**INFORMATION REQUIRED OF INSTITUTIONAL INVESTMENT MANAGERS PURSUANT TO SECTION 13(f) OF THE SECURITIES EXCHANGE ACT OF 1934 AND RULES THEREUNDER**

Securities and Exchange Commission  
Washington, D.C. 20549

Report for the Calendar Year Ended \_\_\_\_\_ 19\_\_

(Please read instructions before preparing form)

If amended report check here:

Name of Institutional Investment Manager:

Business Address:

Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Name, Phone No., and Title of Person Duly Authorized to Submit This Report:

**ATTENTION** — Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

The institutional investment manager submitting this Form and its attachments and the person by whom it is signed represent hereby that all information contained therein is true, correct and complete. It is understood that all required items, statements and schedules are considered integral parts of this Form and that the submission of any amendment represents that all unamended items, statements and schedules remain true, correct and complete as previously submitted.

Pursuant to the requirements of Securities Exchange Act of 1934, the undersigned institutional investment manager has caused this report to be signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

(Name of Institutional Investment Manager)

(Manual Signature of Person Duly Authorized to Submit This Report)

Name and 13F file numbers of All Institutional Investment Managers with respect to which this schedule is filed (other than the one filing this report) (List in alphabetical order).

13F File Numbers will be assigned to Institutional Investment Managers after they file their first report.

Name:	13F File No.:	Name:	13F File No.:
1. _____	_____	8. _____	_____
2. _____	_____	9. _____	_____
3. _____	_____	10. _____	_____
4. _____	_____	11. _____	_____
5. _____	_____	12. _____	_____
6. _____	_____	13. _____	_____
7. _____	_____	14. _____	_____

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Form continues on following page

Page \_\_\_\_ of \_\_\_\_

# FORM 13F

Name of Reporting Manager \_\_\_\_\_

(SEC USE ONLY)  
I

Item 1: Name of Issuer	Item 2: Title of Class	Item 3: CUSIP Number	Item 4: Fair Market Value	Item 5: Shares or Principal Amount	Item 6: Investment Discretion			Item 7: Managers See Instr. V	Item 8: Voting Authority (Shares)		
					(a) Sole	(b) Shared- As Defined in Instr. V	(c) Shared- Other		(a) Sole	(b) Shared	(c) None
<b>COLUMN TOTALS</b>											