

**SUPPORTING STATEMENT**  
**Rule 17f-7**

**A. JUSTIFICATION**

**1. Necessity for the Information Collection**

Rule 17f-7 (17 CFR 270.17f-7) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the “Act”), governs the custody of the assets of registered management investment companies (“funds”) with custodians outside the United States. Rule 17f-7 permits a fund under certain conditions to maintain its foreign assets with an eligible securities depository, which has to meet minimum standards for a depository. The fund or its investment adviser generally determines whether the depository complies with those requirements based on information provided by the fund’s primary custodian (a bank that acts as global custodian). The depository custody arrangement also must meet certain conditions. The fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository arrangements, and the fund’s contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks. The primary custodian and other custodians also are required to agree to exercise reasonable care.

**2. Purpose of the Information Collection**

The collection of information requirements in rule 17f-7 are intended to provide workable standards that protect funds from the risks of using foreign securities depositories while assigning appropriate responsibilities to the fund’s primary custodian and investment adviser based on their capabilities. The requirement that the foreign securities depository meet specified minimum standards is intended to ensure that the depository is subject to basic safeguards deemed appropriate for all depositories. The requirement that the fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository

arrangements, and the fund's contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks, is intended to provide essential information about custody risks to the fund's investment adviser as necessary for it to approve the continued use of the depository. The requirement that the primary custodian agree to exercise reasonable care is intended to provide assurances that its services and the information it provides will meet an appropriate standard of care.

### **3. Role of Improved Information Technology**

Rule 31a-2(f) under the Act permits investment companies to maintain many types of records on micrographic and electronic storage media.

### **4. Efforts to Identify Duplication**

The Commission periodically evaluates rule-based reporting and recordkeeping requirements for duplication, and reevaluates them whenever it proposes a rule or a change in a rule. Rule 17f-7 does not require duplicative reporting or recordkeeping.

### **5. Effect on Small Entities**

The Commission does not believe that compliance with rule 17f-7 is unduly burdensome for small entities. Rule 17f-7 affects, among other persons, the relatively small number of global custodians that act as primary custodians. None of these global custodians would likely qualify as a small entity, because each custodian is a major bank with a global branch network or global ties to other banks. Rule 17f-7 also affects the funds that invest in foreign markets, and the

investment advisers to those funds. Few if any of the affected funds and advisers are small

entities.<sup>1</sup>

## **6. Consequences of Less Frequent Collection**

Rule 17f-7's reporting requirements apply only upon the occurrence of material changes in the custody risks associated with maintaining the fund's assets with a foreign securities depository. Some custody arrangements, such as arrangements with less established foreign depositories, may require more frequent reporting than other arrangements.

## **7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)**

None.

## **8. Consultation Outside the Agency**

The Commission requested public comment on the collection of information requirements in rule 17f-7 before it submitted this request for extension and approval to the Office of Management and Budget. The Commission received no comment in its response to its request.

The Commission and the staff also participate in an ongoing dialogue with representatives of the investment company industry through public conferences, meetings, and informal exchanges. These forums provide the Commission and the staff useful means to identify and address paperwork burdens that may confront the industry.

## **9. Payment or Gift to Respondents**

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<sup>1</sup> A fund is considered a small entity for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, if it, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less. 17 CFR 270.0-10. An adviser is considered a small entity if it has assets under management of less than \$25 million, has total assets of less than \$5 million, and is not in a control relationship with other advisers or persons that are not small entities. 17 CFR 275.0-7. Most funds that invest in foreign securities are part of a fund complex that has net assets of more than \$50 million, and are advised by advisers with assets under management of \$25 million or more.

Not applicable.

**10. Assurance of Confidentiality**

Not applicable.

**11. Sensitive Questions**

Not applicable.

**12. Estimate of Hour Burden**

The staff estimates that each of approximately 828 investment advisers<sup>2</sup> would make an average of 7 responses annually under the rule to address depository compliance with minimum requirements, any indemnification or insurance arrangements, and reviews of risk analyses or notifications. The staff estimates each response would take 5.5 hours, requiring a total of approximately 38.5 hours for each adviser. The total annual burden associated with these requirements of the rule would be approximately 31,878 hours (828 advisers x 38.5 hours per adviser). The staff further estimates that during each year, each of approximately 15 global custodians would make an average of 4 responses to analyze custody risks and provide notice of any material changes to custody risk under the rule. The staff estimates that each response would take 250.25 hours, requiring approximately 1001 hours annually per custodian.<sup>3</sup> The total annual burden associated with these requirements of the new rule would be approximately 15,015 hours (15 custodians x 1001 hours). Therefore, the staff estimates that the total annual burden associated with all collection of information requirements of the rule would be 46,893 hours

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<sup>2</sup> At the start of 2008, there were more than 9300 open-end (including ETFs) portfolios and closed-end funds. These entities were managed or sponsored by more 828 investment advisers.

<sup>3</sup> These estimates are based on conversations with representatives of the fund industry and global custodians.

(31,878 + 15,015). The total annual cost of burden hours is estimated to be \$10,081,302 (31,878 x \$239 for a portfolio manager, plus 15,015 hours x \$164/hour for a trust administrator's time).<sup>4</sup> The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians.

### **13. Estimate of Total Annual Cost Burden**

Rule 17f-7 does not impose any paperwork related cost burden not discussed in item 12 above.

### **14. Estimate of Cost to the Federal Government**

The rule imposes no costs associated with filing reports or any other costs to the Federal government.

### **15. Explanation of Changes in Burden**

The decrease in the estimated burden of rule 17f-7 by 2,707 hours results from updated information from industry participants regarding annual hourly burdens per custodian. After discussions with representatives from the fund industry, the staff has decreased its estimate of the total annual hourly burden per custodian from 30,000 to 15,015 hours. Although the annual hourly burden per adviser increased (from 20 to 38.5 hours per adviser), the increase was offset by a decrease in the annual hourly burden per custodian. The staff anticipates that the number of

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<sup>4</sup> The salaries for a portfolio manager and a trust administrator are from SIFMA's Management & Professional Earnings in the Securities Industry 2007, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

existing funds that change their global custodians is negligible and, therefore, primarily new funds are required to make a response.

**16. Information Collection Planned for Statistical Purposes**

Not applicable.

**17. Approval to not Display Expiration Date**

Not applicable.

**18. Exceptions to Certification Statement**

Not applicable.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable.