

SUPPORTING STATEMENT
Rule 489 and Form F-N

A. JUSTIFICATION

1. Necessity for the Information Collection

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) (the “1940 Act”) requires investment companies to register with the Securities and Exchange Commission (the “Commission”) before conducting any business in interstate commerce. In the absence of an exemption, foreign banks and foreign insurance companies and their holding companies and finance subsidiaries may be considered investment companies for purposes of the 1940 Act and may be required to register as investment companies or file applications under Section 6(c) of the 1940 Act (15 U.S.C. 80a-6(c)) for exemption from the Act’s requirements.

Rule 3a-6 under the 1940 Act exempts foreign banks and foreign insurance companies from the definition of “investment company” under the Act, and therefore from the requirement to register under the Act. In connection with the exemption provided by Rule 3a-6, the holding companies and finance subsidiaries of foreign banks and insurance companies are eligible for exemption from the definition of investment company by Rule 3a-1 and Rule 3a-5 under the 1940 Act, respectively.

Foreign banks and insurance companies relying on Rule 3a-6, holding companies of foreign banks and insurance companies relying on Rule 3a-1, and finance subsidiaries of foreign banks and insurance companies relying on Rule 3a-5 are required by Rule 489 under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the “1933 Act”) to file Form F-N under the 1933 Act when making a public offering of securities in the United States. Form F-N is used by the

foreign bank, insurance company, or related entity to appoint an agent for service of process in the United States.

2. Purpose of the Information Collection

The information is collected so that the Commission and private plaintiffs may serve process on foreign entities in actions and administrative proceedings arising out of or based on the offer or sales of securities in the United States by such foreign entities. Without an agent for service in the United States, serving process on such foreign entities could be difficult and expensive.

3. Role of Improved Information Technology

The Commission's electronic filing system, called EDGAR (for Electronic Data Gathering, Analysis and Retrieval), is designed to automate the filing, processing and dissemination of all disclosure filings. The system permits publicly held companies to transmit their filings to the Commission electronically. This automation has increased the speed, accuracy and availability of information, generating benefits to investors and financial markets. All companies required to file Form F-N are required to use EDGAR to file the form.

4. Efforts to Identify Duplication

There is no other rule that requires the foreign entities subject to Rule 489 to provide the Commission with the same information.

5. Effect on Small Entities

Foreign businesses are not small entities for the purposes of the Regulatory Flexibility Act (5 U.S.C. 603). Rule 489 and Form F-N, therefore, place no burden on small entities.

6. Consequences of Less Frequent Collection

Form F-N is required to be filed only when a foreign bank, foreign insurance company, or a finance subsidiary or holding company of a foreign bank or insurance company makes a public offering of securities in the United States. In the absence of the filing requirements in Rule 489 and Form F-N, it would be difficult and expensive for the Commission and private plaintiffs to serve process on the foreign entities in actions and administrative proceedings arising out of or based on the offer or sales of securities in the United States by such foreign entities.

7. Inconsistencies With Guidelines in 5 CFR 1320.5(d)(2)

Not applicable.

8. Consultations Outside the Agency

Comments are generally received from registrants, trade associations, the legal and accounting professions, and other interested parties. In addition, the Commission and staff of the Division of Investment Management participate in an ongoing dialogue with representatives of the investment company industry through public conferences, meetings, and informal exchanges. These various forums provide the commission and the staff with a medium of ascertaining and acting upon paperwork burdens confronting the industry. Prior to their adoption in 1991, Rule 489 and Form F-N were proposed for public comment. The rule and form were adopted after consideration by the Commission of all views and comments received. The Commission requested public comment on the collection of information requirements in

Rule 489 and Form F-N before it submitted this request for extension and approval to the Office of Management and Budget. The Commission received no comments in response to its request.

9. Payment or Gift to Respondents

Not applicable.

10. Assurance of Confidentiality

Not applicable.

11. Sensitive Questions

Not applicable.

12. Estimate of Hour Burden

Foreign banks, foreign insurance companies, and holding companies and finance subsidiaries of foreign banks and foreign insurance companies are required to file Form F-N each time they make a public offering of securities in the United States. The form is required to be amended only if the entity appoints a successor agent or if the name or address of the agent changes. The Commission estimates that it receives a total of 24 submissions from 19 entities annually. The information requested in Form F-N is minimal and should be readily available to the foreign entity filing the form. The Commission estimates that the Form requires an average of one hour to complete, resulting in a total annual burden of 24 hours (as some of the entities submitted multiple filings). There are no independent burden hours associated with Rule 489. The Commission, using an estimated hourly wage rate of \$63 for a compliance clerk, estimates

that the total annual cost of the hour burden imposed by Rule 489 is \$1512 (24 [annual hour burden] x \$63 [hourly wage rate]).¹

13. Estimate of Total Annual Cost Burden

If a respondent does not have an office in the United States, it may incur the cost of paying an agent to accept service of process. The Commission believes that this cost is minimal.

14. Estimate of Cost to the Federal Government

Because the sole purpose of Form F-N is to appoint an agent for service of process in the event of a suit against the registrant, Commission staff does not review Form F-N submissions when they are filed. Processing Form F-N thus involves minimal cost to the Commission.

15. Explanation of Changes in Burden

The total burden hours associated with Rule 489 is being revised based on the increase in the number of submissions annually (from 11 to 24). As a result, the total burden hours for compliance with Rule 489 will increase from 11 burden hours in current inventory to 24 burden hours.

16. Information Collection Planned for Statistical Purposes

Not applicable.

17. Approval to not Display Expiration Date

Not applicable.

18. Exceptions to Certification Statement

¹ The hourly wage rate for a compliance clerk is from SIFMA's Office Salaries in the Securities Industry 2008, modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

Not applicable.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.