

**SUPPORTING STATEMENT FOR PROPOSED RULES  
UNDER THE SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF  
1934 AND INVESTMENT COMPANY ACT OF 1940**

This submission, pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501, et seq., consists of this supporting statement and the following attachments:

- A. Statutory Authority
- B. Proposing Release

**A. JUSTIFICATION**

**1. NECESSITY FOR THE INFORMATION COLLECTION**

In Securities Act Release No. 33-9052, the Commission proposed amendments to Items 401,<sup>1</sup> 402,<sup>2</sup> and 407<sup>3</sup> of Regulation S-K;<sup>4</sup> Rules 14a-2,<sup>5</sup> 14a-4,<sup>6</sup> and 14a-12;<sup>7</sup> Schedule 14A<sup>8</sup> and Forms 8-K,<sup>9</sup> 10-Q,<sup>10</sup> and 10-K<sup>11</sup> under the Securities Exchange Act of

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<sup>1</sup> 17 CFR 229.401.

<sup>2</sup> 17 CFR 229.402.

<sup>3</sup> 17 CFR 229.407.

<sup>4</sup> 17 CFR 229.10 et al.

<sup>5</sup> 17 CFR 240.14a-2.

<sup>6</sup> 17 CFR 240.14a-4.

<sup>7</sup> 17 CFR 240.14a-12.

<sup>8</sup> 17 CFR 240.14a-101.

<sup>9</sup> 17 CFR 249.308.

<sup>10</sup> 17 CFR 249.308a.

<sup>11</sup> 17 CFR 249.310.

1934 (“Exchange Act”);<sup>12</sup> and Rule 20a-1<sup>13</sup> and Forms N-1A,<sup>14</sup> N-2,<sup>15</sup> and N-3,<sup>16</sup> under the Investment Company Act of 1940 (“Investment Company Act”).<sup>17</sup> The proposed revisions would require additional disclosure regarding compensation policies and corporate governance, and facilitate shareholder communications relating to voting decisions.

The proposed amendments to Exchange Act Rules 14a-2, 14a-4 and 14a-12 would not affect any existing hour or cost burdens. We believe these proposals, if adopted, would provide certainty to companies and persons and facilitate communications with shareholders. The proposed amendments to these rules merely would clarify existing requirements.

## **2. PURPOSE OF THE INFORMATION COLLECTION**

The proposed amendments are designed to enhance the executive compensation and corporate governance disclosures provided by companies. Specifically, the proposals are intended to enhance the transparency of a company’s compensation policies and its impact on risk taking; director and nominee qualifications; board leadership structure; the potential conflicts of compensation consultants; and to provide investors with clearer and more meaningful executive compensation disclosure.

## **3. USE OF ELECTRONIC MEDIA**

Forms 8-K, 10-K, 10-Q, S-1, S-4, S-11, N-1A, N-2, and N-3; and Schedules 14A and 14C are filed electronically with the Commission using the Commission’s Electronic Data Gathering and Retrieval (“EDGAR”) system.

## **4. DUPLICATION**

The proposed disclosure would not duplicate, overlap, or conflict with other federal rules.

## **5. METHODS USED TO MINIMIZE BURDEN ON SMALL BUSINESSES**

We anticipate that the proposed disclosure amendments would increase the burdens and costs for companies that would be subject to the proposed amendments.

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<sup>12</sup> 15 U.S.C. 78a et seq.

<sup>13</sup> 17 CFR 270.20a-1.

<sup>14</sup> 17 CFR 239.15A and 274.11A.

<sup>15</sup> 17 CFR 239.14 and 274.11a-1.

<sup>16</sup> 17 CFR 239.17a and 274.11b.

<sup>17</sup> 15 U.S.C. 80a-1 et seq.

Some of the proposed amendments, however, would not apply to smaller reporting companies.

**6. DESCRIPTION OF CONSEQUENCES OF LESS FREQUENT COLLECTION**

The regulations, forms and schedules set forth the disclosure requirements for periodic reports; registration statements; and proxy and information statements filed by companies to help investors make informed investment and voting decisions. Less frequent collection would deprive investors to access of information that is important to their voting and investment decisions.

**7. EXPLANATION OF SPECIAL CIRCUMSTANCES**

Not applicable.

**8. CONSULTATION OUTSIDE THE AGENCY**

The Commission has amended Regulation S-K, Forms 8-K, 10-K, 10-Q, S-1, S-4, S-11, N-1A, N-2, and N-3; and Schedules 14A and 14C several times since their adoption. Proposed changes are published for public comment. The Commission is soliciting comment on the proposed amendments. A copy of this release is attached.

**9. PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

**10. ASSURANCE OF CONFIDENTIALITY**

Not applicable.

**11. SENSITIVE QUESTIONS**

Not applicable.

**12. and 13. ESTIMATE OF HOUR AND COST BURDENS**

We anticipate that the proposed amendments would increase the burdens and costs for U.S. companies. We estimated the average number of hours a company would spend completing the forms and the average hourly rate for outside professionals. In deriving our estimates, we recognize that the burdens will likely vary among individual companies based on a number of factors, including the size and complexity of their organizations, and the nature of their operations. We believe that some companies will experience hour and cost burdens in excess of our estimated averages in the first year of compliance with the proposed amendments and some companies may experience burdens less than our estimated averages. Our estimates have been adjusted to reflect the fact that

some of the proposed amendments would be required in some but not all of the above listed documents, and would not apply to all companies.

With respect to reporting companies (other than registered management investment companies), the proposed revisions to Regulation S-K generally would be required in Schedules 14A and 14C, however, only the proposed revisions to Items 401 and 402 of Regulation S-K would be required in Forms 10, 10-K, S-1, S-4 and S-11. Furthermore, some of the proposed amendments to Item 402 of Regulation S-K would not be applicable to smaller reporting companies because under current reporting requirements these companies are not required to provide a Compensation Discussion and Analysis (“CD&A”) in their Commission filings. Based on the number of proxy filings we received in the 2008 fiscal year, we estimate that approximately 3,922 domestic companies are smaller reporting companies that have a public float of less than \$75 million. With respect to registered management investment companies, the proposed revisions would be reflected in certain Regulation S-K items, Schedule 14A, and Forms N-1A, N-2 and N-3.

Our burden estimates are also based on other assumptions. First, we assumed that the burden hours of the proposed amendments would be comparable to the burden hours related to similar disclosure requirements under current reporting rules, such as the disclosure of audit fees and non-audit services,<sup>18</sup> CD&A and executive compensation reporting,<sup>19</sup> and the disclosure of the activities of nominating committees.<sup>20</sup> Second, we assumed that substantially all of the burdens associated with the proposed amendments to Items 401 and 402 of Regulation S-K would be associated with Schedules 14A and 14C as these would be the primary documents that compensation disclosure and CD&A would be prepared and presented.<sup>21</sup>

Tables 1 and 2 below illustrate the estimated total annual compliance burden of the collection of information in hours and in cost under the proposed amendments for annual reports; quarterly reports; current reports; proxy and information statements; Form 10; Forms S-1, S-4, S-11, N-1A, N-2, and N-3; and Regulation S-K.<sup>22</sup> The burden

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<sup>18</sup> Release No. 33-8183 (Jan. 28, 2003) [68 FR 6006] (which we estimated to be two hours).

<sup>19</sup> Release No. 33-8732A (Aug. 29, 2006) [71 FR 53518] (which we estimated to be 95 hours). For purposes of the proposed amendments to CD&A, we adjusted this number downward in recognition that the 95 hours included, among other things, the estimated burdens of the preparation and review of additional tabular and related narrative disclosures required by Item 402 of Regulation S-K.

<sup>20</sup> Release No. 33-8340 (Nov. 24, 2003) [68 FR 69204] (which we estimated to be three hours).

<sup>21</sup> The burden estimates for Form 10-K assume that the proposed amendments to Items 401 and 402 of Regulation S-K would be satisfied by either including the information directly in an annual report or incorporating the information by reference from the proxy statement or information statement on Schedule 14A or Schedule 14C. Our PRA estimates include an estimate 1 hour burden in the Form 10-K and schedules to account for the incorporation of the information that would be required under proposed amendments to Items 401 and 402 of Regulation S-K.

<sup>22</sup> Figures in both tables have been rounded to the nearest whole number.

estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take a company to prepare and review the proposed disclosure requirements. For the Exchange Act reports on Form 10-K, 10-Q, and Form 8-K, and the proxy and information statements we estimate that 75% of the burden of preparation is carried by the company internally and that 25% of the burden of preparation is carried by outside professionals retained by the company at an average cost of \$400 per hour. For the registration statements on Forms S-1, S-4, S-11, N-1A, N-2, and N-3, and the Exchange Act registration statement on Form 10, we estimate that 25% of the burden of preparation is carried by the company internally and that 75% of the burden of preparation is carried by outside professionals retained by the company at an average cost of \$400 per hour. There is no change to the estimated burden of the collections of information under Regulation S-K because the burdens that this regulation imposes are reflected in our revised estimates for the forms. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours.

Table 1. Incremental Paperwork Burden under the proposed amendments for annual reports; quarterly reports; proxy and information statements:

	Number of Responses <sup>23</sup> (A)	Incremental Burden Hours/For m (B)	Total Incremental Burden Hours (C)=(A)*(B)	75% Company (D)=(C)*0.75	25% Professional (E)=(C)*0.25	Professional Costs (F)=(E)*\$400
10-K	13,545	1	13,545	10,159	3,386	\$1,354,500
10-Q <sup>24</sup>	32,462	(1)	(7,300)	(5,475)	(1,825)	\$(730,000)
8-K <sup>25</sup>	115,795	1	115,795	86,846	28,949	\$11,579,500
Form 10 <sup>26</sup>	238	20	4,760	1,190	3,570	\$1,428,000
Sch.	7,300					

<sup>23</sup> The number of responses reflected in the table equals the actual number of forms and schedules filed with the Commission during the 2008 fiscal year, except for Form 8-K. The number of responses for Form 8-K reflects the number of Form 8-Ks filed during the 2008 fiscal year plus an additional 7,371 filings.

<sup>24</sup> We calculated the reduction in the burden hours for Form 10-Q based on the number of proxy statements filed with the Commission during the 2008 fiscal year. We assumed that there would be, at a minimum, an equal number of Form 10-Qs filed to report the voting results from a meeting of shareholders. The reduction reflects the proposed deletion of the disclosure of voting results from the form.

<sup>25</sup> We have included an additional 7,300 responses to Form 8-K to reflect the additional Form 8-Ks that would be filed to report final voting results. We have also included an additional 71 Form 8-Ks to reflect the number of Form 8-Ks that would be filed to report preliminary voting results which we based on the actual number of proxy statements involving contested elections that were filed with the Commission during the 2008 fiscal year.

<sup>26</sup> The burden allocation for Form 10 uses a 25% internal to 75% outside professional allocation.

14A <sup>27</sup>						
Accel. Filers	3,378	30	101,340	76,005	25,335	\$10,134,000
SRC Filers	3,922	14	54,908	41,181	13,727	\$5,490,800
Sch. 14C	680					
Accel. Filers	315	30	9,440	7,080	2,360	\$943,996
SRC Filers	365	14	5,115	3,836	1,279	\$511,500
Rule 20a-1	1,225	10	12,250	9,188	3,062	\$1,225,000
Reg. S-K	N/A	N/A	N/A	N/A	N/A	N/A
Total			309,853	230,010	79,843	\$31,937,296

Table 2. Incremental Paperwork Burden under the proposed amendments for registration statements:

	Number of Responses <sup>28</sup> (A)	Incremental Burden Hours/Forms (B)	Total Incremental Burden Hours (C)=(A)*(B)	25% Company (D)=(C)*0.25	75% Professional (E)=(C)*0.75	Professional Costs (F)=(E)*\$400
Form S-1	768	20	15,360	3,840	11,520	\$4,608,000
Form S-4	619	20	12,380	3,095	9,285	\$3,714,000
Form S-11	100	20	2,000	500	1,500	\$600,000
Form N-1A	1,935	9	17,415	4,354	13,061	\$5,224,500
Form N-2	205	9	1,845	461	1,384	\$553,500
Form N-3	17	9	153	38	115	\$45,900
Reg. S-K	N/A	N/A	N/A	N/A	N/A	N/A
Total			49,153	12,288	36,865	\$14,745,900

#### 14. ESTIMATE OF COST TO FEDERAL GOVERNMENT

The estimated cost of preparing the proposed amendments was approximately \$150,000.

#### 15. EXPLANATION OF CHANGES IN BURDEN

<sup>27</sup> The estimates for Schedule 14A and Schedule 14C are separated to reflect our estimate of the burden hours and costs related to the proposed amendments to CD&A which would be applicable to companies that are either accelerated or large accelerated filers, but not applicable to companies that are smaller reporting companies. We estimate that 3,378 Schedule 14A responses were filed by accelerated or large accelerated filers, and 315 Schedule 14C responses were filed by accelerated or large accelerated filers.

<sup>28</sup> The number of responses reflected in the table equals the actual number of forms filed with the Commission during the 2008 fiscal year, except for Forms N-1A and N-3. The number of responses for Forms N-1A and N-3 reflect the number of open-ended management investment companies registered with the Commission.

We anticipate that the proposed amendments would increase the burdens and costs for U.S. companies. The proposed amendments would increase existing burdens by requiring companies to make additional disclosures about their overall compensation policies and the policies impact on risk taking; stock and option awards of executives and directors; director and nominee qualifications and legal proceedings; company leadership structure; the board's role in the risk management process; and potential conflicts of interest of compensation consultants that advise companies. In addition, the proposed amendments would transfer from Forms 10-Q and 10-K to Form 8-K the requirement to disclose the voting results from a meeting of shareholders, which we anticipate would reduce the disclosure burdens for Form 10-Q.

Table 3 below illustrates the changes in cost and hour burdens from the burden estimates currently approved by OMB. Columns (A) and (B) represent the most recent burden estimates submitted to OMB. Columns (C) and (D) represent the change in burden from the most recent estimates. Columns (E) and (F) represent the program change, which encompasses any change in burden that is attributable to the proposed amendments.

Table 3:<sup>29</sup>

	Current Annual Time and Cost Burdens		Change in Annual Time and Cost Burdens		Program Change	
	Burden Hours (A)	Cost (B)	Burden Hours (C)	Costs (D)	Burden Hours (E)	Cost (F)
10-K	21,353,389	\$2,847,118,500	21,363,548	\$2,848,473,000	10,159	\$1,354,500
10-Q	4,565,268	\$608,702,400	4,559,793	\$607,972,400	(5,475)	\$(730,000)
8-K	406,590	\$54,212,000	493,436	\$65,791,500	86,846	\$11,579,500
Sch. 14A	555,683	\$63,709,987	672,869	\$79,334,787	117,186	\$15,624,800
Sch. 14C	52,337	\$5,951,639	63,254	\$7,407,097	10,916	\$1,455,496
Form 10	11,849	\$14,220,000	13,039	\$15,648,000	1,190	\$1,428,000
Form S-1	243,310	\$291,972,000	247,150	\$296,580,000	3,840	\$4,608,000
Form S-4	629,329	\$755,196,601	632,424	\$758,910,601	3,095	\$3,714,000
Form S-11	19,065	\$22,880,000	19,565	\$23,480,000	500	\$600,000
Form N-1A	1,242,784	\$81,043,520	1,247,138	\$86,268,020	4,354	\$5,224,500
Form N-2	86,468	\$3,531,600	86,929	\$4,085,100	461	\$553,500
Form N-3	12,973	\$540,200	13,011	\$586,100	38	\$45,900
Rule 20a-1	130,095	\$18,375,000	139,283	\$19,600,000	9,188	\$1,225,000

## 16. INFORMATION COLLECTIONS PLANNED FOR STATISTICAL PURPOSES

<sup>29</sup> Figures in Table 3 have been rounded to the nearest whole number.

Not applicable.

**17. EXPLANATION AS TO WHY EXPIRATION DATE WILL NOT BE DISPLAYED**

Not applicable.



**18. EXCEPTIONS TO CERTIFICATION**

Not applicable.

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

Not applicable.