

**SUPPORTING STATEMENT FOR FINAL RULES
UNDER THE 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. Adopting Release

A. JUSTIFICATION

1. NECESSITY FOR THE INFORMATION COLLECTION

In Securities Act Release No. 33-9089, the Commission adopted amendments to Items 401,¹ 402,² and 407³ of Regulation S-K;⁴ Schedule 14A⁵ and Forms 8-K,⁶ 10-Q,⁷ and 10-K⁸ under the Securities Exchange Act of 1934 (“Exchange Act”);⁹ and Rule 20a-1 and Forms N-1A,¹⁰ N-2,¹¹ and N-3,¹² under the Investment Company Act of 1940 (“Investment Company Act”).¹³ The amendments enhance the information provided to shareholders so they are better able to evaluate the leadership of public companies. The amendments will require companies to make new or revised disclosures regarding risk, compensation and corporate governance matters when voting decisions are made.

¹ 17 CFR 229.401.

² 17 CFR 229.402.

³ 17 CFR 229.407.

⁴ 17 CFR 229.10 et al.

⁵ 17 CFR 240.14a-101.

⁶ 17 CFR 249.308.

⁷ 17 CFR 249.308a.

⁸ 17 CFR 249.310.

⁹ 15 U.S.C. 78a et seq.

¹⁰ 17 CFR 239.15A and 274.11A.

¹¹ 17 CFR 239.14 and 274.11a-1.

¹² 17 CFR 239.17a and 274.11b.

¹³ 15 U.S.C. 80a-1 et seq.

2. PURPOSE OF THE INFORMATION COLLECTION

The amendments are designed to enhance the risk, executive compensation and corporate governance disclosures provided by companies. Specifically, in regard to disclosure, the amendments 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. In addition, the amendments expedite the reporting of shareholder voting results.

3. USE OF ELECTRONIC MEDIA

The collection of information requirements of the amendments will be set forth in Forms 8-K, 10, 10-Q, 10-K, S-1, S-4, S-11, N-1A, N-2, and N-3; and Schedules 14A and 14C. These forms and schedules are filed electronically with the Commission using the Commission's Electronic Data Gathering, Analysis and Retrieval system.

4. DUPLICATION

The amendments do not duplicate, overlap, or conflict with other federal rules.

5. METHODS USED TO MINIMIZE BURDEN ON SMALL BUSINESSES

We anticipate that the amendments will increase the burdens and costs for companies that would be subject to the proposed amendments. Some of the amendments, however, will be required in some, but not all, of the above documents, and will not apply to smaller reporting companies. For these reasons, the amendments should not have a significant economic impact on small entities.

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 of access to 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 amendments are published for public comment. The Commission solicited comment on the amendments.

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 have revised the PRA burden and cost estimates for the amendments that were originally submitted to the OMB in connection with the proposed rules. We derived our new burden hour and cost estimates by estimating the total amount of time it would take a company to prepare and review the information collections contained in the final rules. This estimate represents the average burden for all companies. In addition, our estimates reflect the fact that some of the information collections will be required in some, but not all, of the above listed forms, and would not apply to all companies.

With respect to reporting companies (other than registered management investment companies), the new rules and amendments will increase the existing disclosure burdens associated with proxy and information statements filed on Schedules 14A and 14C, Forms 10, 10-K, 8-K, S-1, S-4 and S-11. However, some of the new disclosure requirements will not apply to smaller reporting companies, defined as companies that have a public float of less than \$75 million. 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. With respect to registered management investment companies, the revisions will be reflected in certain Regulation S-K items, Schedule 14A, and Forms N-1A, N-2 and N-3.

In the Proposing Release, we assumed that the burden hours of the amendments would be comparable to the burden hours related to similar disclosure requirements under existing reporting requirements, such as the disclosure of audit fees and non-audit services, CD&A and executive compensation reporting, and the disclosure of the activities of nominating committees. We have revised these estimates to reflect the revisions we made to the amendments and the responses of commenters. We increased the burden estimate for the enhanced director and nominee qualification disclosure to reflect the additional disclosures that will be required, such as the new legal proceedings and diversity policy, and to address concerns that our initial estimate may have been understated. At the same time, we have decreased some of the burden estimates to reflect

other revisions to the proposed amendments. However, we made no change in our assumption that most of the burdens associated with the 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 where much of the new disclosures would be set forth.

For each reporting company (other than registered management investment companies), we estimate that the amendments will impose on average the following incremental burden hours:

- Eight hours related to the amendments to discuss compensation policies and practices as they relate to risk management;
- Eight hours for the enhanced director and nominee disclosure;
- Six hours for the disclosures about board leadership structure and the board's role in risk oversight;
- Three hours for the disclosures regarding compensation consultants; and
- One hour for the proposed reporting of voting results on Form 8-K.

With respect to registered management investment companies, we estimated that the proposed amendments would impose on average the following incremental burden hours:

- Eight hours for the proposed enhanced director and nominee disclosure in proxy statements and three hours for such proposed disclosure in registration statements;¹⁴ and
- Six hours for the proposed disclosures about company leadership structure and the board's role in risk management.

The tables below illustrate the total annual compliance burden of the collection of information in hours and in costs under the amendments for annual reports; quarterly reports; current reports; proxy and information statements on Schedules 14A and 14C; Form 10; Forms S-1, S-4, S-11, N-1A, N-2, and N-3; and Regulation S-K.¹⁵ The burden 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 disclosure requirements. For the Exchange Act reports on Forms 10-K, 10-Q, and 8-K, and the proxy and information statements on Schedules 14A and 14C, we estimate that 75% of the burden of preparation is carried by the company internally and that 25% of

¹⁴ We estimated that the disclosure burden for registration statements on Forms N-1A, N-2, and N-3 is less than for proxy statements because the disclosure relating to involvement in legal proceedings for the past ten years applies only to proxy statements and not to registration statements.

¹⁵ Figures in both tables have been rounded to the nearest whole number.

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 10, S-1, S-4, S-11, N-1A, N-2, and N-3, 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. 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. 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 and schedules.

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

| | Number of Responses ¹⁶ (A) | Incremental Burden Hours/Form (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 ¹⁷ | 32,462 | (1) | (7,300) | (5,475) | (1,825) | \$(730,000) |
| 8-K ¹⁸ | 117,255 | 1 | 117,255 | 87,941 | 29,314 | \$11,725,500 |
| Sch. 14A ¹⁹ | 7,300 | | | | | |
| Accel. Filers | 3,378 | 25 | 84,450 | 63,338 | 21,113 | \$8,445,000 |

¹⁶ 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 8,831 filings. See footnote Error: Reference source not found below.

¹⁷ 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 deletion of the disclosure of voting results from the form.

¹⁸ 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. As explained in footnote Error: Reference source not found above, this number is based on the actual number of proxy statements filed in 2008. We adjusted this number upward by 20% to reflect our estimate of the additional Form 8-Ks that may be filed to report preliminary votes, and 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 because of a contested election, which we based on the actual number of proxy statements involving contested elections that were filed with the Commission during the 2008 fiscal year.

¹⁹ The estimates for Schedule 14A and Schedule 14C are separated to reflect our estimate of the burden hours and costs related to new Item 402(s) of Regulation S-K which is applicable to companies that are either accelerated or large accelerated filers, but not applicable to companies that are non-accelerated filers, including smaller reporting companies (SRC filers). 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.

| | | | | | | |
|---------------|-------|-----|--------|--------|--------|-------------|
| SRC Filers | 3,922 | 17 | 66,674 | 50,005 | 16,669 | \$6,667,400 |
| Sch. 14C | 680 | | | | | |
| Accel. Filers | 315 | 25 | 7,867 | 5,906 | 1,969 | \$787,600 |
| SRC Filers | 365 | 17 | 6,205 | 4,654 | 1,551 | \$620,400 |
| Rule 20a-1 | 1,225 | 14 | 17,150 | 12,863 | 4,288 | \$1,715,000 |
| Reg. S-K | N/A | N/A | N/A | N/A | N/A | N/A |

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

| | Number of Responses ²⁰ (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 10 | 238 | 16 | 3,808 | 952 | 2,856 | \$1,142,400 |
| Form S-1 | 1,168 | 16 | 18,688 | 4,672 | 14,016 | \$5,606,400 |
| Form S-4 | 619 | 16 | 9,904 | 2,476 | 7,428 | \$2,971,200 |
| Form S-11 | 100 | 16 | 1,600 | 400 | 1,200 | \$480,000 |
| Form N-1A | 1,935 | 12 | 23,220 | 5,805 | 17,415 | \$6,966,000 |
| Form N-2 | 205 | 12 | 2,460 | 615 | 1,845 | \$738,000 |
| Form N-3 | 17 | 12 | 204 | 51 | 153 | \$61,200 |
| Reg. S-K | N/A | N/A | N/A | N/A | N/A | N/A |

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

We anticipate that the amendments will increase the burdens and costs for U.S. companies. The amendments will increase existing burdens by requiring companies to make additional disclosures of the following:

- the relationship of a company's compensation policies and practices to risk management;
- the background and qualifications of directors and nominees;
- legal actions involving a company's executive officers, directors and nominees for director;
- the consideration of diversity in the process by which candidates for director are considered for nomination;

²⁰ 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 as of the end of the 2008 fiscal year.

- board leadership structure and the board’s role in risk oversight;
- stock and option awards to company executives and directors; and
- potential conflicts of interests of executive compensation consultants.

In addition, the amendments transfer from Forms 10-Q and 10-K to Form 8-K the requirement to disclose the voting results from a meeting of shareholders.

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 new burden estimates under the proposed amendments. Columns (E) and (F) represent the program change, which encompasses the change in the burden estimates attributable to the proposed amendments.

Table 3:²¹

| | Current Burden | | Change in Burden | | 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 | 494,531 | \$65,937,500 | 87,941 | \$11,725,500 |
| Sch. 14A | 555,683 | \$63,709,987 | 669,026 | \$78,822,387 | 113,343 | \$15,112,400 |
| Sch. 14C | 52,337 | \$5,951,639 | 62,897 | \$7,359,639 | 10,560 | \$1,408,000 |
| Form 10 | 11,849 | \$14,220,000 | 12,801 | \$15,362,400 | 952 | \$1,142,400 |
| Form S-1 | 243,310 | \$291,972,000 | 247,982 | \$297,578,400 | 4,672 | \$5,606,400 |
| Form S-4 | 629,329 | \$755,196,601 | 631,805 | \$758,167,801 | 2,476 | \$2,971,200 |
| Form S-11 | 19,065 | \$22,880,000 | 19,465 | \$23,360,000 | 400 | \$480,000 |
| Form N-1A | 1,242,784 | \$81,043,520 | 1,248,589 | \$88,009,520 | 5,805 | \$6,966,000 |
| Form N-2 | 86,468 | \$3,531,600 | 87,083 | \$4,269,600 | 615 | \$738,000 |
| Form N-3 | 12,973 | \$540,200 | 13,024 | \$601,400 | 51 | \$61,200 |
| Rule 20a-1 | 130,095 | \$18,375,000 | 142,958 | \$20,090,000 | 12,863 | \$1,715,000 |

16. INFORMATION COLLECTIONS PLANNED FOR STATISTICAL PURPOSES

Not applicable.

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

Not applicable.

18. EXCEPTIONS TO CERTIFICATION

Not applicable.

²¹ Figures in Table 3 have been rounded to the nearest whole number.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.