

**SUPPORTING STATEMENT
For Rule 27d-2**

A. JUSTIFICATION

1. Necessity for the Information Collection

Section 27(d) of the Investment Company Act of 1940 (“Act”) [15 U.S.C. 80a-27(d)] provides that a registered investment company issuing a periodic payment plan certificate¹ (“issuer”), or any depositor or underwriter for such company, must include in the certificate a provision that the holder is entitled to exchange the certificate within eighteen months of issuance for a cash payment equaling the value of the account plus any sale charges paid in excess of fifteen percent of the certificate holder’s gross payments. Section 27(f) of the Act [15 U.S.C. 80a-27(f)] provides that, if the sales charge associated with a periodic payment plan exceeds nine percent per year, the custodian bank for the plan must, within sixty days of issuance, send the certificate holder a notice permitting the surrender of the certificate within forty-five days in exchange for a cash payment equaling the value of the account plus the difference between the gross payments made and the net amount invested. Sections 27(d) and 27(f)

¹ A “periodic payment plan certificate” is “(A) any certificate, investment contract, or other security providing for a series of periodic payments by the holder, and representing an undivided interest in certain specified securities or in a unit or fund of securities purchased wholly or partly with the proceeds of such payments, and (B) any security the issuer of which is also issuing securities of the character described in clause (A) of this paragraph and the holder of which has substantially the same rights and privileges as those which holders of securities of the character described in said clause (A) have upon completing the periodic payments for which such securities provide.” 15 U.S.C. 80a-2(a)(27).

On September 29, 2006, Congress enacted the Military Personnel Financial Services Protection Act of 2006 to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products. Military Personnel Financial Services Protection Act, 109th Cong., 2d Sess., Pub. L. No. 109- 290, 120 Stat. 1317 (September 29, 2006) (prefatory material). Among other things, the Act prohibits the issuance and sale of new periodic payment plan certificates after October 27, 2006, without invalidating any rights or obligations under a certificate sold before that date.

both authorize the Securities and Exchange Commission (“Commission”) to promulgate rules imposing reserve requirements to ensure that issuers’ underwriters and depositors are able to refund sales charges.

Rule 27d-1 requires the depositor or principal underwriter for an issuer to deposit funds into a segregated trust account to provide assurance of its ability to fulfill its refund obligations under sections 27(d) and 27(f) of the Act. The rule sets forth minimum reserve amounts and guidelines for the management and disbursement of the assets in the account. A single account may be used for the periodic payment plans of multiple investment companies. Rule 27d-1(j) directs depositors and principal underwriters to make an accounting of their segregated trust accounts on Form N-27D-1, which is filed with the Commission.

Form N-27D-1, which is titled “Accounting of Segregated Trust Account,” is intended to facilitate the Commission’s oversight of compliance with the reserve requirements set forth in rule 27d-1. The form requires depositors and principal underwriters to report deposits to a segregated trust account, including those made pursuant to paragraphs (c) and (e) of the rule. Withdrawals pursuant to paragraph (f) of the rule must also be reported. In addition, the form solicits information regarding the minimum amount required to be maintained under paragraphs (d) and (e) of rule 27d-1. Depositors and principal underwriters must file the form once a year on or before January 31 of the year following the year for which information is presented.

Instead of relying on rule 27d-1 and filing Form N-27D-1, depositors or principal underwriters for the issuers of periodic payment plans may rely on the exemption afforded by rule 27d-2, which is titled “Insurance Company Undertaking in Lieu of Segregated Trust Account.” In order to comply with the rule: (i) the depositor or principal underwriter must secure from an insurance company a written guarantee of the refund requirements; (ii) the

insurance company must satisfy certain financial criteria; and (iii) the depositor or principal underwriter must file as an exhibit to the issuer's registration statement, a copy of the written undertaking, an annual statement that the insurance company has met the requisite financial criteria on a monthly basis, and an annual certified balance sheet.

2. Purposes of the Information Collection

Rule 27d-2 was explicitly authorized by statute. It provides assurance that depositors and principal underwriters of issuers have access to sufficient cash to meet the demands of certificate holders who reconsider their decisions to invest in a periodic payment plan. The information collection requirement in rule 27d-2 enables the Commission to monitor compliance with insurance company undertaking requirements.

3. Role of Improved Information Technology

Improved technology has reduced the burden on industry associated with rule 27d-2 by facilitating the marshalling of the required information. In addition, the exhibits to the issuer's registration statement under rule 27d-2 are filed electronically on the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR"). EDGAR is designed to automate the filing, processing, and dissemination of full disclosure filings by enabling publicly held companies to transmit filings to the Commission electronically. The automation provides for speed, accuracy and public availability of information, generating benefits to investors and financial markets.

4. Efforts to Identify Duplication

The information required to be provided under rule 27d-2 is not duplicative of information collected under other Commission regulations. Similar information provided to the Commission in other contexts would not serve as an adequate substitute for the purpose of assessing whether depositors and principal underwriters of issuers have access to sufficient funds to accommodate refund requests by periodic payment plan certificate holders.

5. Effect on Small Entities

The reporting requirements contained in rule 27d-2 apply to all issuers and their depositors or underwriters, regardless of their size. The Commission would not be able to minimize the burden on small entities without compromising the mandates set forth in sections 27(d) and 27(f) of the Act. The Commission believes that the requirements in rule 27d-2 do not currently have any effect on small entities.²

6. Consequences of Less Frequent Collection

Altering the frequency of disclosures made under rule 27d-2 would undermine the purpose of the rule. The requirement that the depositor or principal underwriter of the issuer file the written undertaking with the insurance company and any amendments to the undertaking ensures the availability of current and accurate information about the insurance company. Likewise, the annual filing of a statement demonstrating that the insurance company met, on a monthly basis, the required financial standards and the filing of a certified balance sheet within 90 days after the close of the insurance company's fiscal year, facilitate timely monitoring of the financial soundness of the guarantor insurance company.

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

Not applicable.

² See *infra* note Error: Reference source not found and accompanying text.

8. Consultation Outside the Agency

The Commission requested public comment on the collection of information requirements in rule 27d-2 before it submitted this request for approval to the Office of Management and Budget. The Commission received no comments in response to this request.

More generally, the Commission and the staff at 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 means of ascertaining and acting upon paperwork burdens confronting the industry.

9. Payment or Gift to Respondents

Not applicable.

10. Assurance of Confidentiality

Not applicable. The information collected under rule 27d-2 is publicly available.

11. Sensitive Questions

Not applicable.

12. Estimate of Hour Burden

Effective October 27, 2006, the Military Personnel Financial Services Protection Act of 2006 banned the issuance or sale of new periodic payment plans. As a result, no registered investment company has issued a periodic payment plan certificate since the effective date of the Act, and the Commission did not receive any filings required by rule 27d-2 in 2008 or

thereafter.³ Accordingly, the staff estimates that there is no longer any information collection burden associated with rule 27d-2. For administrative purposes, however, we are requesting approval for an information collection burden of one hour per year. This estimate of burden hours is not derived from a comprehensive or necessarily even representative study of the cost of the Commission's rule and forms.

13. Estimate of Total Annual Cost Burden

For the reasons discussed above, the staff estimates that there is no cost burden associated with rule 27d-2.

14. Estimate of Cost to the Federal Government

For the reasons discussed above, we estimate that there is no cost to the federal government associated with rule 27d-2.

15. Explanation of Changes in Burden

The estimated annual hour burden associated with rule 27d-2 has decreased by one hour from one hour to zero hours. The decrease in hours results from the enactment of the Military Personnel Financial Services Protection Act of 2006, which prohibited the issuance and sale of new periodic payment plan certificates as of October 27, 2006. For administrative purposes, however, we are requesting approval for an information collection burden of one hour per year.

16. Information Collection Planned for Statistical Purposes

Not applicable.

17. Explanation to not Display Expiration Date

Not applicable.

18. Exceptions to Certification Statement

³ The Commission also did not receive any Form N-27D-1 filings in 2008 or thereafter.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.