

## **SUPPORTING STATEMENT FOR RULE AMENDMENTS UNDER THE SECURITIES EXCHANGE ACT OF 1934**

This supporting statement is part of a submission under the Paperwork Reduction Act of 1995, 44 U.S.C. §3501, et seq.

### **A. JUSTIFICATION**

#### **1. NECESSITY OF INFORMATION COLLECTION**

Section 942(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) eliminated the automatic suspension of the duty to file under Section 15(d) of the Securities Exchange Act of 1934<sup>1</sup> for asset-backed securities (“ABS”) issuers and granted the Securities and Exchange Commission (the “Commission”) the authority to issue rules providing for the suspension or termination of such duty. In Securities Exchange Act Release 34-65148,<sup>2</sup> the Commission adopted amendments to the Securities Exchange Act of 1934 rules to permit suspension of the reporting obligations for ABS issuers when there are no ABS of the class sold in a registered transaction held by non-affiliates of the depositor and to amend rules relating to the Exchange Act reporting obligations of ABS issuers in light of statutory changes from Section 942(a) of the Act.

Certain provisions of the disclosure rules and forms applicable to ABS issuers contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995. While the amendments proposed today do not alter the disclosure requirements set forth in these rules and forms, the amendment to Exchange Act Section 15(d) effected by the Act will increase the number of filings made pursuant to these rules and forms. The titles for affected collections of information are:

- “Form 10-K” (OMB Control No. 3235-0063);
- “Form 10-D” (OMB Control No. 3235-0604);
- “Form 8-K” (OMB Control No. 3235-0288); and
- “Form 15” (OMB Control No. 3235-0167).

The Forms are collections of information that were adopted under the Exchange Act and set forth the disclosure requirements for periodic and current reports filed with respect to ABS and other types of securities to inform investors. While we expect that some issuers will be able to suspend their reporting obligations in the future as a result of the rules we adopt today, we estimate that the rule amendments will not affect our PRA estimates over the next three years.

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

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<sup>1</sup> 15 U.S.C. §78a et seq.

<sup>2</sup> Release No. 34-65148 (Aug. 17, 2011) [76 FR 52549].

We are permitting ABS issuers to suspend their reporting obligation with respect to a class of ABS as to any semi-annual fiscal period, if, at the beginning of the semi-annual fiscal period, other than a period in the fiscal year within which the registration statement became effective or, for shelf offerings, the takedown occurred, there are no ABS of such class that were sold in a registered transaction held by non-affiliates of the depositor and a certification on Form 15 has been filed. The purpose of the information collections in the amendments is to continue to provide disclosure and transparency to participants and investors in the ABS market, while permitting ABS issuers to suspend their reporting obligation under these limited circumstances.

**3. ROLE OF IMPROVED TECHNOLOGY AND OBSTACLES TO REDUCING BURDEN**

All of the above forms are filed electronically with the Commission using the Commission’s Electronic Data Gathering and Retrieval (EDGAR) system.

**4. DUPLICATION**

We are not aware of any rules that conflict with or substantially duplicate the amendments.

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

The amendments relate to the ongoing reporting requirements for ABS issuers under the Exchange Act. Rules in the Securities Act and the Exchange Act define an issuer, other than an investment company, to be a “small business” or “small organization” if it had total assets of \$5 million or less on the last day of its most recent fiscal year. As the depositor and issuing entity are most often limited purpose entities in an ABS transaction, we focused on the sponsor in analyzing the potential impact on small entities. Based on our data, we only found one sponsor that could meet the definition of a small broker-dealer. Under Section 605(b) of the Regulatory Flexibility Act, we certified that, when adopted, the proposals would not have a significant economic impact on a substantial number of small entities.

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

The objectives of ongoing disclosure requirements under the Exchange Act could not be met with less frequent collection of this information for ABS.

**7. EXPLANATION OF SPECIAL CIRCUMSTANCES/INCONSISTENCIES WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

None.

**8. CONSULTATION OUTSIDE THE AGENCY**

The Commission issued a release soliciting comment on the new “collection of information” requirements and the associated paperwork burdens. Comments on Commission releases are generally received from registrants, investors and other market participants. In addition, the Commission and staff participate in an ongoing dialogue with representatives of various market participants through public conferences, meetings, and informal exchanges. The Commission considered all comments received prior to publishing the final rule as required by 1320.11(f). See the comments received at: <http://www.sec.gov/comments/s7-02-11/s70211.shtml>. The Commission received no comments relating to our Paperwork Reduction Act analysis.

**9. PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

**10. ASSURANCE OF CONFIDENTIALITY**

The information in each of the collections of information discussed above is made publicly available.

**11. SENSITIVE QUESTIONS**

Not applicable.

**12/13. ESTIMATES OF HOUR AND BURDEN COSTS**

Our PRA burden estimate for Form 10-K, Form 8-K and Form 15 is based on an average of the time and cost incurred by all types of public companies, not just ABS issuers, to prepare the collection of information. Form 10-D is a form that is only prepared and filed by ABS issuers. Form 10-D is filed within 15 days of each required distribution date on the ABS, as specified in the governing documents for such securities, containing periodic distribution and pool performance information.

Our PRA burden estimates for the collections of information are based on information that we receive on entities assigned to Standard Industrial Classification Code 6189, the code used by ABS issuers, as well as information from outside data sources. When possible, we base our estimates on an average of the data that we have available for years 2005 through 2010.

## Statutory Effects

Prior to the amendment to Exchange Act Section 15(d), except for master trust issuers, the requirement to file Form 10-K for ABS issuers was typically suspended after the year of initial issuance because the issuer had fewer than 300 security holders of record. The Dodd-Frank Act amended Exchange Act Section 15(d) to remove issuers of a class of ABS from automatic suspension of the filing requirement. Subsequent to the enactment of the Dodd-Frank Act, the number of Forms 10-K and 10-D filed by ABS issuers is expected to increase each year by the number of ABS registered offerings and the number of Forms 15 filed by ABS issuers is expected to decrease by a similar number.

In conjunction with the proposing release, we provided PRA estimates. In the proposing release we based our estimates for the number of ABS issuers on an average of the data that we have available for years 2004 through 2009. We are revising our estimates to reflect 2010 data regarding ABS filings. The yearly average of ABS registered offerings with the Commission over the period from 2004 to 2009 was 958. The yearly average of ABS registered offerings with the Commission over the period from 2005 to 2010, a similar 6-year period, was 751.<sup>3</sup> As a result, for PRA purposes, we are updating our estimates of annual increases in Form 10-K filings to 751 filings,<sup>4</sup> in Form 10-D filings to 4,506 filings,<sup>5</sup> and in Form 8-K to 1,127 filings<sup>6</sup> and reducing the annual decrease in Form 15 filings to 751 filings.<sup>7</sup> In addition, consistent with our

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<sup>3</sup> We have chosen to continue using a six year average to estimate the number of ABS registered offerings despite the significant drop off in filings after 2007. As discussed in the proposing release, in order to estimate the number of Forms 10-K, 10-D, 8-K, and 15 filed by ABS issuers for PRA purposes, we average the estimate of the number of those forms over three years. For the first year of our average, we are using an updated number of 751 as an estimate for the number of issuers we expect to file Forms 10-K, 10-D and 8-K. In the second year, we increase our estimate by 751 to a total of 1,502 and in the third year, the addition of another 751 brings the total to 2,253. The average number of issuers that we expect to file forms over three years would, therefore, be 1,502, however 751 of those issuers would have filed forms prior to the statutory change. We reduce the estimated increase by 751 to account for those issuers. We are therefore increasing our estimate by 751 issuers to account for the increase in the number of issuers that will be required to file reports as a result of the statutory change.

<sup>4</sup> As discussed above, we estimate that an additional 751 issuers will be required to file reports as a result of the statutory change. We continue to estimate that each ABS issuer would have one annual Form 10-K filing.

<sup>5</sup> We continue to estimate that each ABS issuer would have six annual Form 10-D filings resulting in 4,506 additional Form 10-D filings (751 ABS issuers x 6 filings) as a result of the statutory change.

<sup>6</sup> We continue to estimate that each ABS issuer would have 1.5 annual Form 8-K filings resulting in 1,127 additional Form 8-K filings (751 ABS issuers x 1.5 filings) as a result of the statutory change.

<sup>7</sup> As indicated in the proposing release, we assume that in any given year the issuers of all registered ABS issued in the prior year would have suspended reporting using Form 15. After the implementation of the Act, issuers are no longer able to automatically suspend reporting; therefore, Form 15 will no longer be used by these ABS issuers as it was in the past. As a result, for the purposes of PRA, we estimate a decrease in Form 15 filings of 751.

estimate in the proposing release that an average of six Form 10-D filings will be filed annually instead of ten Form 10-D filings, which forms the basis of the current PRA inventory for Form 10-D, we are reducing our current inventory of annual responses to Form 10-D by 4,000 to reflect the new annual estimate.<sup>8</sup>

We estimate that, for Exchange Act reports generally, 75% of the burden of preparation is carried by the company internally and that 25% of the burden is carried by outside professionals retained by the registrant at an average cost of \$400 per hour. Consistent with our estimates in 2004, we estimate that 120 hours would be needed to complete and file a Form 10-K for an ABS issuer, 30 hours would be needed to complete and file a Form 10-D for an ABS issuer, 5 hours would be needed to complete and file a Form 8-K for an ABS issuer, and 1.5 hours would be needed to complete and file a Form 15 for an ABS issuer.

In summation, we estimate, for PRA purposes, increases of 90,120 total burden hours for Form 10-K (751 Forms 10-K times 120 burden hours per filing), 135,180 total burden hours for Form 10-D (4,506 Forms 10-D times 30 burden hours per filing), and 5,635 total burden hours for Form 8-K (1,127 Forms 8-K times 5 burden hours per filing), as well as a decrease of 1,127 total burden hours for Form 15 (751 Forms 15 times 1.5 burden hours per filing) as a result of the statutory changes to Exchange Act Section 15(d).<sup>9</sup> We allocate 75% of those hours (an increase of 67,590 hours for Form 10-K, 101,385 hours for Form 10-D, and 4,226 hours for Form 8-K) to internal burden and the remaining 25% to external costs using a rate of \$400 per hour (an increase of \$9,012,000 for Form 10-K, \$13,518,000 for Form 10-D and \$563,500 for Form 8-K). In addition, we estimate, for PRA purposes, a decrease in total burden hours due to a change in agency estimate of the number of annual Form 10-D filings of 120,000 (4,000 Form 10-D filings times 30 burden hours per filing). We allocate 75% of those hours to internal burden (a decrease of 90,000) and the remaining 25% to external costs using a rate of \$400 per hour (a decrease of \$12,000,000).

### Effects of the Rules

We amended the rules to permit suspension of the reporting obligations for ABS issuers when there are no ABS of the class sold in a registered transaction held by non-affiliates of the depositor. While we expect that issuers will be able to suspend their reporting obligations in the future, based on average expected deal life data, for purposes of the PRA, we estimate that the amendments will not affect our PRA estimates over the next three years. We also amended Exchange Act Rule 15d-22 relating to reporting and shelf registration and Exchange Act Rules 12h-3 and 12h-6 and Form 15 to conform the

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<sup>8</sup> In our review of the Form 83-I for Form 10-D, the Form 83-I failed to indicate that the Form 10-D is filed more than once annually. Rather the Form 83-I reflected our estimate of the total number of annual responses. We are revising the Form 83-I to reflect our current estimate of six annual Form 10-D filings per respondent.

<sup>9</sup> We allocate all of the burden for Form 15 filings to internal burden hours.

rules and form to amended Exchange Act Section 15(d) and the amended rules. We do not believe that these amendments will affect our PRA estimates.

### Summary of Changes to Annual Burden Compliance in Collection of Information

The table illustrates the changes in annual compliance burden in the collection of information in hours and costs for existing reports for ABS issuers.

Form	Current Annual Responses	Proposed Annual Responses	Current Burden Hours	Decrease or Increase in Burden Hours	Proposed Burden Hours	Current Professional Costs	Decrease or Increase in Professional Costs	Proposed Professional Costs
<b>10-K</b> <sup>10</sup>	13,545	14,296	21,361,898	67,590	21,429,488	2,848,253,000	9,012,000	2,857,265,000
<b>10-D</b> <sup>11</sup>	10,000	10,506	225,000	11,385	236,385	30,000,000	1,518,000	31,518,000
<b>8-K</b> <sup>12</sup>	116,860	117,987	502,839	4,226	507,065	67,045,200	563,500	67,608,700
<b>15</b> <sup>13</sup>	3,000	2,249	4,500	(1,126)	3,374	0	0	0

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

We estimate costs to the federal government will be \$50,000.

#### **15. EXPLANATION OF CHANGES IN BURDEN**

The Dodd-Frank Act amended Exchange Act Section 15(d) to remove issuers of a class of ABS from automatic suspension of the filing requirement. Subsequent to the enactment of the Dodd-Frank Act, the number of Forms 10-K and 10-D filed by ABS issuers is expected to increase each year by the number of ABS registered offerings and the number of Forms 15 filed by ABS issuers is expected to decrease by a similar number. The changes that we are estimating are all related to these statutory effects.

While we expect that issuers will be able to suspend their reporting obligations in the future, based on average expected deal life data, for purposes of the PRA, we do not

<sup>10</sup> The number for Current Professional Cost on the Form 83-I is \$2,848,253,001 due to rounding in the Form 83-I.

<sup>11</sup> Please note that on the ROCIS form we have only included the net increase in burden hours and professional costs. Because we were adjusting the number of respondents, the ROCIS form appeared unable to accommodate the increase to the program change due to new statute and the decrease due to adjustment of agency estimate.

<sup>12</sup> The number for Current Professional Costs was inadvertently retained from the proposing release leading to an understatement in the Proposed Professional Costs for Form 8-K in the adopting release. However, the incremental burden remains the same and both the adopting release and this table accurately reflect the increase in professional costs. The attached table and the analysis in the supporting statement for the proposed amendments accurately reflect our estimates.

<sup>13</sup> The Decrease in Burden Hours and the Proposed Burden Hours in the adopting release are 1,127 and 3,373 and 1,126 and 3,374 in the Form 83-I and this table. This reflects a rounding discrepancy.

estimate, and we do not expect, that the amendments will affect our PRA estimates over the next three years.

**16. INFORMATION COLLECTION PLANNED FOR STATISTICAL PURPOSES**

Not applicable.

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

We request authorization to omit the expiration date on the electronic version of this form for design and scheduling reasons. The OMB control number will be displayed.

**18. EXCEPTIONS TO CERTIFICATION**

Not applicable.

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

Not applicable.