

**SUPPORTING STATEMENT**  
**for the Paperwork Reduction Act Information Collection Submission**  
**“Form N-4”**

**A. JUSTIFICATION**

**1. Information Collection Necessity**

Form N-4 (17 CFR 239.17b and 274.11c) is the form used by insurance company separate accounts organized as unit investment trusts that offer variable annuity contracts to register as investment companies under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) (“Investment Company Act”) and/or to register their securities under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (“Securities Act”). Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the registration statement be effective before any securities are sold, and Section 8 of the Investment Company Act (15 U.S.C. 80a-8) provides for the registration of investment companies. Pursuant to Form N-4, separate accounts organized as unit investment trusts that offer variable annuity contracts provide investors with a prospectus and a statement of additional information (“SAI”) covering essential information about a separate account. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to or at the time of sale or delivery of securities.

**2. Information Collection Purpose**

The purpose of Form N-4 is to meet the filing and disclosure requirements of the Securities Act and the Investment Company Act and to enable filers to provide investors with information necessary to evaluate an investment in a security. This information

collection differs significantly from many other federal information collections, which are primarily for the use and benefit of the collecting agency. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

### **3. Information Technology Consideration**

The Commission's electronic filing system ("EDGAR") automates the filing, processing, and dissemination of full disclosure filings. The system permits publicly held companies to transmit filings to the Commission electronically. This automation has increased the speed, accuracy, and availability of information, generating benefits to investors and financial markets. Form N-4 is required to be filed with the Commission electronically on EDGAR. (17 CFR 232.101(a)(1)(i) and (iv)) The public may access filings on EDGAR through the Commission's website (<http://www.sec.gov>) or at EDGAR terminals located at the Commission's public reference rooms.

### **4. Duplication**

The Commission periodically evaluates rule-based reporting and recordkeeping requirements for duplication, and reevaluates them whenever it proposes a rule or a change in a rule. The requirements of Form N-4 generally are not duplicated elsewhere.

### **5. Effect on Small Entities**

The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), to identify methods to minimize recordkeeping or reporting requirements affecting small businesses. The current disclosure requirements for registration statements on Form N-4 do not distinguish between small entities and other registrants. The burden on smaller registrants, however, to prepare and file

registration statements may be greater than for larger registrants. This burden includes the cost of producing, printing, filing, and disseminating prospectuses and SAIs. The Commission believes, however, that imposing different requirements on smaller entities would not be consistent with investor protection and the purposes of registration statements.

In any event, no small entities currently file registration statements on Form N-4.

#### **6. Consequences of Less Frequent Collection**

The purpose of Form N-4 is to meet the filing and disclosure requirements of the Securities Act and the Investment Company Act and to enable filers to provide investors with information necessary to evaluate an investment in a security. Less frequent filing would be inconsistent with the filing and disclosure requirements of the Securities Act and the Investment Company Act. In addition, if the form were to be filed less frequently, investors may not be provided with the information necessary to evaluate an investment in a security.

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

Not Applicable. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

#### **8. Consultation Outside the Agency**

Form N-4 has previously been amended through rulemaking actions pursuant to the Administrative Procedure Act (5 U.S.C. 500 *et. seq.*). 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 means of ascertaining and acting upon paperwork burdens that may confront the industry. The Commission requested public comment on the Form N-4 collection of information 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. The respondents receive no payments or gifts.

**10. Confidentiality**

Not Applicable. There is no assurance of confidentiality provided.

**11. Sensitive Questions**

Not Applicable. No information of a sensitive nature is required to be disclosed.

**12. Burden of Information Collection**

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.) and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. Providing the information required by Form N-4 is mandatory. Responses will not be kept confidential.

The estimate of the annual number of registration statements filed on Form N-4 is based on the number of filings received by the Commission in the 12-month period ending December 31, 2011. The hour burden estimates for preparing and filing registration statements on Form N-4 is based on past consultations with filers and the Commission's experience with its contents. The number of burden hours may vary

depending on, among other things, the complexity of the filing and whether preparation of the registration statement is performed internally or by outside counsel.

Form N-4 generally imposes two types of reporting burdens on investment companies: (1) the burden of preparing and filing the initial registration statement; and (2) the burden of preparing and filing post-effective amendments to a previously effective registration statement. The Commission estimates that the burden hours that would be imposed by Form N-4 are as follows:

Calculation of Hour Burden for Initial Form N-4 Filings

• Number of initial Form N-4 filings annually	124
• Average number of portfolios per filing	1
• Number of portfolios in initial Form N-4 filings annually	124
• Current hour burden per portfolio for initial Form N-4 filing	278.5
• Total annual hour burden for initial Form N-4 filings (124 x 278.5)	34,534

Calculation of Hour Burden for Post-Effective Amendments

• Number of post-effective amendments filed annually	1,127
• Average number of portfolios per filing	1
• Number of portfolios in post-effective amendments to Form N-4 filings annually	1,127
• Current hour burden per portfolio for post-effective amendments	197.25
• Total annual hour burden for post-effective amendments (1,127 x 197.25)	222,300.75

Total Annual Hour Burden

• Annual hours for initial Form N-4 filings + annual hours for post effective amendments (34,534 + 222,300.75)	256,834.75
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Based on the estimated wage rate, the total cost to the fund industry of the hour burden for complying with Form N-4 is approximately \$82,187,120.<sup>1</sup>

### **13. Cost Burden to Respondents**

Cost burden is the cost of goods and services purchased to prepare and update filings on Form N-4, such as for the services of independent auditors and outside counsel. Estimates are based on the Commission's experience with the filing of registration forms.

The current estimated annual cost burden for preparing an initial Form N-4 filing is \$22,319 per portfolio and the estimated annual current cost burden for preparing a post-effective amendment filing on Form N-4 is \$21,155 per portfolio.<sup>2</sup> The Commission estimates that, on an annual basis, 124 portfolios will be referenced in initial Form N-4 filings and 1,127 portfolios will be referenced in post-effective amendment filings on Form N-4. Thus, the estimated total annual cost burden allocated to Form N-4 would be \$26,609,241, as follows:

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<sup>1</sup> The cost to the industry is calculated by multiplying the total annual hour burden (256,834.75 hours) by the estimated hourly wage rate of \$320. The estimated wage figure is based on published rates for Compliance Attorneys (\$322) and Senior Programmers (\$318). The \$322/hour figure for a Compliance Attorney and \$318/hour figure for a Senior Programmer are from SIFMA's Management & Professional Earnings in the Securities Industry 2011, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. The estimated wage rate was further based on the estimate that Compliance Attorneys and Senior Programmers would divide time equally, resulting in a weighted wage rate of \$320  $((\$322 \times .50) + (\$318 \times .50))$ .

<sup>2</sup> The previous cost burden for preparing an initial Form N-4 filing was \$21,125 per portfolio and the current cost burden for preparing a post-effective amendment to a previously effective registration statement was \$20,023 per portfolio. To account for the effects of inflation since 2009, a rate of 5.65% was applied, which was calculated using the Consumer Price Index.

Cost Burden of Preparing and Filing Initial Form N-4

- Cost burden per portfolio for preparing and filing initial Form N-4 \$22,319
- Number of portfolios in initial Form N-4 filings annually 124
- Cost burden of preparing and filing initial Form N-4 (124 x \$22,319) \$2,767,556

Cost Burden of Preparing and Filing Post-Effective Amendments

- Cost burden per portfolio for preparing and filing post-effective amendments \$21,155
- Number of portfolios in post-effective amendments to Form N-4 filings annually 1,127
- Cost burden of preparing and filing post-effective amendments (1,127 x \$21,155) \$23,841,685

Total Annual Cost Burden for Form N-4

- Initial Form N-4 + post-effective amendments (\$2,767,556 + \$23,841,685) \$26,609,241

**14. Cost to the Federal Government**

The annual cost of reviewing and processing disclosure documents, including new registration statements, post-effective amendments, proxy statements, and shareholder reports of investment companies amounted to approximately \$20.5 million in fiscal year 2011, based on the Commission's computation of the value of staff time devoted to this activity and related overhead.

**15. Changes in Burden**

Currently, the approved total annual hour burden for preparing and filing registration statements on Form N-4 is 297,224 hours and the total annual cost burden allocated to Form N-4 is \$29,428,280. These burdens were based on the previous estimate of 1,464 total annual responses (104 initial responses + 1,360 post-effective

amendments = 1,464 total annual responses). The new estimate of the total annual hour burden is 256,834.75 hours and the new estimate of the total annual cost burden is \$26,609,241. These new burdens are based on the new estimated total annual number of responses of 1,251 (124 initial responses + 1,127 post-effective amendments = 1,251 total annual responses). The decrease to the total annual hour burden of 40,389.25 hours and the decrease to the total annual cost burden of \$2,819,039 are due to a decrease in estimated responses representing post-effective amendments, offset slightly by an increase in the estimated number of responses representing initial filings.

**16. Information Collection Planned for Statistical Purposes**

Not Applicable. The information collection is not used for statistical purposes.

**17. OMB Expiration Date Display Approval**

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

**18. Exceptions to Certification Statement**

Not Applicable. This collection complies with the requirements in 5 CFR 1320.9.

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

Not Applicable. The collection of information does not employ statistical methods.