

**SUPPORTING STATEMENT**  
**for the Paperwork Reduction Act Information Collection Submission for**  
**“Form S-6”**

**A. JUSTIFICATION**

**1. Necessity for the Information Collection**

Form S-6 (17 CFR 239.16) is a form used for registration under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (“Securities Act”) of securities of any unit investment trust (“UIT”) registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) (“Investment Company Act”) on Form N-8B-2 (17 CFR 274.12).<sup>1</sup> 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 statement be effective before any securities are sold. 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 the sale or at the time of confirmation or delivery of the securities.

Section 10(a)(3) of the Securities Act (15 U.S.C. 77j(a)(3)) provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use. As a result, most UITs update their registration statements under the Securities Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units. UITs that are registered under the Investment Company Act on Form N-8B-2 file post-effective amendments to their registration statements on Form S-6 in order to update their prospectuses.

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<sup>1</sup> Form N-8B-2 is the form used by UITs other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor to register under the Investment Company Act pursuant to Section 8 thereof.

## **2. Information Collection Purpose**

The purpose of Form S-6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information necessary to evaluate an investment in the 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. Consideration Given to Information Technology**

The Commission's electronic filing system (Electronic Data Gathering, Analysis and Retrieval or "EDGAR") is designed to automate 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 S-6 is required to be filed with the Commission electronically on EDGAR. (17 CFR 232.101(a)(1)(i)). The public may access filings on EDGAR through the Commission's Internet Web site (<http://www.sec.gov>) or at EDGAR terminals located at the Commission's public reference rooms. Prospectuses may be sent to investors by electronic means so long as certain requirements are met.<sup>2</sup> The Commission has no information concerning the percentage of such documents sent electronically.

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<sup>2</sup> See Use of Electronic Media for Delivery Purposes, Securities Act Release No. 7233, Exchange Act Release No. 36345, Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)].

#### **4. Duplication**

Form S-6 requires a prospectus that includes much of the information requested in Form N-8B-2. Form N-8B-2, however, is filed only once to register the UIT under the Investment Company Act.<sup>3</sup>

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

The current disclosure requirements for the registration statements on Form S-6 do not distinguish between small entities and other investment companies. The burden on smaller investment companies, however, to prepare and file registration statements may be greater than for larger investment companies. This burden includes the cost of producing, printing, filing, and disseminating prospectuses. The Commission believes, however, that imposing different requirements on smaller investment companies would not be consistent with investor protection and the purposes of the registration statements. The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act, to identify methods to minimize recordkeeping or reporting requirements affecting small businesses.

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<sup>3</sup> To eliminate the duplicative information presented in the registration forms used by UITs, the Commission has proposed and repropounded, but has not yet adopted, Form N-7, an integrated disclosure form under the Securities Act and the Investment Company Act. See, Investment Company Act Release No. 14513 (May 14, 1985) [50 FR 21282 (May 23, 1985)]; Investment Company Act Release No. 15612 (Mar. 9, 1987) [52 FR 8268 (March 17, 1987)].

Duplication has been lessened for insurance company separate accounts organized as UITs that offer variable annuity or variable life insurance contracts, because each such entity registers offerings of securities under the Securities Act and registers as an investment company under the Investment Company Act using a single form, Form N-4 (for insurance company separate accounts organized as UITs that offer variable annuity contracts) or Form N-6 (for insurance company separate accounts organized as UITs that offer variable life insurance contracts).

**6. Consequences of Less Frequent Collection**

The purpose of Form S-6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information necessary to evaluate an investment in the security. Less frequent filing would be inconsistent with the filing and disclosure requirements of the Securities 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 the security.

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

Not applicable.

**8. Consultation Outside the Agency**

The Commission and the staff of the Division of Investment Management participate in an ongoing dialogue with representatives of the investment company industry and 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. The Commission requested public comment on the collection of information requirements in Form S-6 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**

Not applicable.

**10. Confidentiality**

Not applicable.

**11. Sensitive Questions**

Not applicable.

**12. Estimate of Time Burden**

The estimated number of annual initial registration statements filed on Form S-6 and the estimated number of annual post-effective amendments to previously effective registration statements filed on Form S-6 are based on filings with the Commission in 2012. The hour burden estimates for preparing and filing Form S-6 are based on the Commission’s experience with the contents of the form. The number of burden hours may vary depending on, among other things, the complexity of the filing and whether preparation of the forms is performed by internal staff or outside counsel. The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a quantitative, comprehensive, or even representative survey or study of the burdens associated with Commission rules and forms.

Form S-6 imposes two types of reporting burdens on UITs that are registered under the Investment Company Act on Form N-8B-2: (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 will be imposed by Form S-6 are as follows:

Calculation of Hour Burden of Initial Form S-6 Filings

- Number of initial filings on Form S-6 annually 1,287
- Number of portfolios in initial Form S-6 filings annually 1
- Current hour burden per portfolio for initial filings on Form S-6 45
- Total annual hour burden for initial Form S-6 filings (1,287 filings x 45 per filing) 57,915

Calculation of Hour Burden of Post-Effective Amendments

• Number of post-effective amendments filed annually	1,268
• Number of portfolios in post-effective amendments to filings on Form S-6 filed annually	1
• Current hour burden per portfolio for post-effective amendment filings	40
• Total annual hour burden to prepare post-effective amendments (1,268 filings x 40 per filing)	50,720

Total Annual Hour Burden

• Annual hours for initial Form S-6 filings + annual hours for post effective amendment filings (57,915 initial filings + 50,720 post-effective amendment filings)	108,635
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Based on the estimated wage rate, the total cost to the industry of the hour burden for complying with Form S-6 is approximately \$34,763,200.<sup>4</sup>

**13. Estimate of Total Annual Cost Burden**

Cost burden is the cost of goods and services purchased to prepare and update Form S-6, such as for the services of independent auditors and outside counsel. The cost burden does not include the hour burden discussed in Item 12. Estimates are based on the Commission's experience with the filing of registration forms.

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<sup>4</sup> The cost to the industry is calculated by multiplying the total annual hour burden (108,635 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 (( $\$322 \times .50$ ) + ( $\$318 \times .50$ )).

The *current* estimated cost burden for preparing and filing an initial registration statement on Form S-6 is \$37,900 and for preparing and filing a post-effective amendment to a previously effective registration statement filed on Form S-6 is \$16,600. The total annual cost burden to respondents for outside professionals associated with the collection of data relating to Form S-6 is *currently* \$54,075,800.

Based on discussion with industry participants, we now estimate that the cost burden for preparing and filing an initial registration statement on Form S-6 is \$30,000 and for preparing and filing a post-effective amendment to a previously effective registration statement filed on Form S-6 is \$18,000. The total annual cost burden to respondents for outside professionals associated with the collection of data relating to Form S-6 is \$61,434,000. The new total cost burden allocated to Form S-6 would be as follows:

Cost Burden of Preparing and Filing Initial Form S-6

- Cost burden per portfolio of preparing and filing initial filings on Form S-6 \$30,000
- Number of initial filings on Form S-6s filed annually 1,287
- Cost burden of preparing and filing initial Form S-6 (\$30,000 x 1,287 UITs) \$38,610,000

Cost Burden of Preparing and Filing Post-Effective Amendments

- Cost burden per portfolio of preparing and filing post-effective amendments \$18,000
- Number of post-effective amendments filed annually 1,268
- Cost burden of preparing and filing post-effective Amendments (\$18,000 x 1,268 UITs) \$22,824,000

Total Cost Burden

- Initial filings on Form S-6 + post effective amendments (\$38,610,000 + \$22,824,000) \$61,434,000

**14. Estimate of Cost to the Federal Government**

The annual cost of reviewing and processing new registration statements, post-effective amendments, proxy statements, shareholder reports, and other filings 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. Explanation of Changes in Burden**

Currently, the approved annual hour burden for preparing and filing reports on Form S-6 is 71,890 hours based upon the previous estimate of 2,054 responses. The new estimate of the total annual hour burden is 108,635 hours based upon the new estimated total number of 2,555 responses. Therefore, there has been an increase in the total annual hour burden for Form S-6 filings of 36,745 hours. The total approved annual cost burden to respondents for outside professionals associated with the collection of data relating to Form S-6 increased from \$54,075,800 to \$61,434,000, a net increase of \$7,358,200. The increase in the burden hours and cost estimates can be attributed to an increase in the number of estimated annual responses to Form S-6 and revised burden hours and cost estimates based on discussions with industry participants.

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

Not applicable.

**17. Approval to Omit OMB Expiration Date**

We request authorization to omit the expiration date on the electronic version of the form within EDGAR. Including the expiration date on the electronic version of the form



will result in increased costs, because the need to make changes to the form may not follow the application's scheduled version release dates. The OMB control number will be displayed.

**18. Exceptions to Certification Statement**

Not applicable.

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

Not applicable.