

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Form 1-E, Regulation E

A. JUSTIFICATION

1. Necessity for the Information Collection

Regulation E provides a conditional exemption from the registration provisions of the Securities Act for securities of small business investment companies (“SBICs”) and investment companies that elect to be treated as business development companies (“BDCs”). Regulation E was initially adopted in 1958 and made available to SBICs pursuant to Section 3(c) of the Securities Act of 1933 (“Securities Act”) (15 U.S.C. 77a *et seq.*). Section 3(c) of the Securities Act generally permits the Securities and Exchange Commission (“Commission”) to add to the securities exempted from the Securities Act by Section 3 any class of securities issued by a SBIC. In 1984, pursuant to Section 3(b) of the Securities Act, Regulation E was amended to permit the availability of the exemption to BDCs. Section 3(b) of the Securities Act generally permits the Commission to add any class of securities to the securities exempted from the Securities Act by Section 3.

Regulation E allows the exemption of securities issued by an SBIC which is registered under the Investment Company Act of 1940 (“Investment Company Act”) (15 U.S.C. 80a-1 *et seq.*), or a closed-end investment company that has elected to be regulated as a BDC under the Investment Company Act from registration under the Securities Act, so long as the aggregate offering price of all securities of an issuer that may be sold within a 12-month period does not exceed \$5,000,000, provided that certain other conditions are met. Under rule 604 of Regulation E, companies wishing to obtain the exemption must notify the Commission of their interest in claiming the exemption by filing a notification on Form 1-E (17 CFR 239.200) with the

Commission. Rule 605 of Regulation E requires an issuer seeking a securities registration exemption under Regulation E to provide an offering circular to persons solicited by the issuer and to file the offering circular with the Commission if the offering is in excess of \$100,000.

2. Purpose and Use of the Information Collection

Form 1-E is filed with the Commission by SBICs and BDCs to claim an exemption from registration. The notification must include the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdictions in which the issuer will offer the securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1-E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the offering circular and any underwriting contracts. The notification on Form 1-E requires less information than would be required in a registration statement under the Securities Act and, thus, results in a reduction of costs and savings of time for a qualified issuer engaged in a small offering. In addition to notifying the Commission of an issuer's intent to make a limited offering, Form 1-E assists the staff to determine whether an exemption is available for the issuer.

A company claiming an exemption under Regulation E must also file an offering circular with the Commission as an exhibit to Form 1-E and provide the offering circular to investors. The offering circular must contain information specified in Schedule A or B of Regulation E (17 CFR 230.610a). In general, Schedules A and B of Regulation E require disclosure about the business and investment policies of the issuer, its management, and its financial condition. Because the offering circular requires less information than would normally be furnished to investors in a prospectus, the burden on the issuer is reduced, while at the same time, investors

receive pertinent information. The Commission uses the information provided in the offering circular to determine whether the offering qualifies for exemption.

3. Consideration Given to Information Technology

Beginning on January 1, 2009, Form 1-E and the offering circular have been filed electronically on the Commission's electronic filing system, called EDGAR (for Electronic Data Gathering, Analysis and Retrieval), which is designed to automate the filing, processing, and dissemination of all disclosure filings. This automation has increased the speed, accuracy, and availability of information, generating benefits to investors and financial markets.

4. Duplication

Not applicable.

5. Effect on Small Entities

The exemption under Regulation E is intended to relieve small entities of the reporting burden of registering their offering under the Securities Act.

6. Consequences Not Conducting Collection

Without the information provided in Form 1-E, the Commission would have no notice of the offering and could not determine whether an offering qualified for the exemption. In addition, without the collection of information in the offering circulars, the Commission would not be able to review the content of the offering and would not be able to determine whether the offerings qualified for the exemption.

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 staff with a means of ascertaining and acting upon paperwork burdens confronting the industry. The Commission also requested public comment on the collection of information requirements with respect to Form 1-E, Regulation E 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

No information of a sensitive nature, including social security numbers, will be required under this collection of information. The information collection collects basic Personally Identifiable Information (PII) that may include the name and address of each officer and director of the issuer. The agency has determined that the information collection constitutes a system of record for purposes of the Privacy Act and is covered under System of Records Notice (SORN) published on February 15, 2018, is available at <https://www.sec.gov/privacy>. In accordance with Section 208 of the E-Government Act of 2002, the agency has conducted a Privacy Impact Assessment (PIA) of the EDGAR system, in

connection with this collection of information. The EDGAR PIA, published on January 29, 2016, is available at <https://www.sec.gov/privacy>.

12. Burden of Information Collection

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act (“PRA”) and are not derived from a quantitative, comprehensive, or even representative survey or study of the burdens associated with Commission rules and forms.

The Commission estimates that, each year, one issuer files two notifications on Form 1-E, together with offering circulars, with the Commission.¹ Based on the Commission’s experience with disclosure documents, we estimate that the burden from compliance with Form 1-E and the offering circular requires approximately 100 hours per filing. The annual burden hours for compliance with Form 1-E and the offering circular would be 200 hours (2 responses x 100 hours per response).

13. Cost to Respondents

The Commission estimates that the cost of outside services used in preparing and filing Form 1-E, including the offering circular, would be approximately \$50,000 per filing (this cost burden includes services provided by outside counsel, independent certified public accountants, and printers). Thus, the annual cost burden estimate is \$100,000 (2 responses x \$50,000 per response).

¹ According to Commission records, during 2015, 2016, and 2017, one issuer filed seven notifications on Form 1-E, together with offering circulars.

14. Cost to the Federal Government

The annual cost of reviewing and processing registration statements, post-effective amendments, proxy statements, shareholder reports, and other filings of investment companies, including notifications on Form 1-E, amounted to approximately \$22.2 million in fiscal year 2017, based on the Commission's computation of the value of staff time devoted to this activity and related overhead.

15. Changes in Burden

In the last PRA submission, the Commission estimated one response to the collection of information annually. Based on this estimate, the Commission determined a total annual reporting burden of 100 hours.

Currently, the Commission estimates that, each year, one issuer files two notifications, together with offering circulars, on Form 1-E with the Commission. As discussed above, the Commission estimates that the new annual reporting burden estimate would be 200 hours per year, an increase of 100 hours. The increase of 100 internal hours is based on a changed estimate of the number of filings issuers make on Form 1-E (from one filing to two filings). The Commission previously estimated that the current annual cost burden to be \$50,000, which is adjusted to a new estimate of \$100,000. The change of \$50,000 in the annual cost burden is based on an increased estimate of the number of filings issuers make on Form 1-E (from one filing to two filings).

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. 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 for Paperwork Reduction Act Submission

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.