

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Form S-6

A. JUSTIFICATION

1. Necessity for the Information Collection

Form S-6¹ is a form used for registration under the Securities Act of 1933 (“Securities Act”)² of securities of any unit investment trust (“UIT”) registered under the Investment Company Act of 1940 (“Investment Company Act”)³ on Form N-8B-2.⁴ Section 5 of the Securities Act 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.⁵ 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 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.⁶ 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.

On June 28, 2018, the Commission issued a release proposing amendments to Form N-8B-2 to include disclosures designed to provide investors who purchase shares of exchange-traded funds structured as UITs (“UIT-ETFs”) in secondary market transactions with information regarding UIT-ETFs, including information regarding costs associated with an investment in UIT-ETFs.

¹ 17 CFR 239.16.

² 15 U.S.C. 77a *et seq.*

³ 15 U.S.C. 80a-1 *et seq.*

⁴ 17 CFR 274.12. 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.

⁵ 15 U.S.C. 77e.

⁶ 15 U.S.C. 77j(a)(3).

Specifically, the proposed amendments to Form N-8B-2 would require new disclosures regarding UIT-ETF-related costs, such as bid-ask spreads, brokerage commissions for buying and selling shares of a UIT-ETF through a broker-dealer, and potential costs related to purchasing UIT ETF shares at a premium or discount to the UIT-ETF's net-asset value ("NAV") per share. The Commission believes that the proposed amendments will provide effective disclosure that better informs investors regarding the costs of investing in UIT-ETFs.

As noted above, UITs file Form N-8B-2 to register under the Investment Company Act when the UIT is initially created and use Form S-6 to file all post-effective amendments to their registration statements in order to update their prospectuses. Therefore, while there were no specific amendments proposed to Form S-6, the information required under the proposed disclosure amendments to Form N-8B-2 also will be reflected in the UIT's Form S-6 filings.

2. Purpose and Use of the Information 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. 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 Data Gathering, Analysis and Retrieval ("EDGAR") automates the filing, processing, and dissemination of full disclosure filings. 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.⁷ 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. Prospectuses may be sent to investors by electronic means so long as certain requirements are met.⁸

⁷ See rule 101(a)(1)(i) of Regulation S-T [17 CFR 232.101(a)(1)(i)].

⁸ See Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)].

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. 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.⁹

5. Effect on Small Entities

The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act,¹⁰ to identify methods to minimize recordkeeping or reporting requirements affecting small businesses. The current disclosure requirements for registration statements on Form S-6 do not distinguish between small entities and other investment companies. The burden on smaller investment companies of preparing and filing registration statements may be proportionately 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.

6. Consequences of Not Conducting 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

⁹ 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).

¹⁰ 5 U.S.C. 601 *et seq.*

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)

This collection is not inconsistent with 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

Before adopting the proposed amendments to Form N-8B-2, which, as discussed above, also will affect Form S-6, the Commission will receive and evaluate public comments on the proposal and its collection of information requirements. Moreover, the Commission and the 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 staff with a means of ascertaining and acting upon paperwork burdens confronting the industry.

9. Payment or Gift

No payment or gift to respondents was provided.

10. Confidentiality

No assurance of confidentiality was provided.

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 names, job titles and work addresses. However, the agency has determined that the information collection does not constitute a system of record for purposes of the Privacy Act. Information is not retrieved by a personal identifier. 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 provided as a supplemental document and is also available at <https://www.sec.gov/privacy>.

12/13 Burden of Information Collection & Cost to Respondents

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act of 1995¹¹ and are not derived from a

¹¹ 44 U.S.C. 3501 *et seq.*

comprehensive or representative survey or study of the cost of Commission rules and forms. Compliance with Form S-6 is mandatory. Responses to the collection of information will not be kept confidential.

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 2014. 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.

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.

In our most recent Paperwork Reduction Act submission for Form S-6, Commission staff estimated the annual compliance burden to comply with the collection of information requirement of Form S-6 is 106,620 hours, with an internal cost burden of approximately \$34,000,000, and an external cost burden estimate of \$67,359,556.¹²

We estimate that, as a result of the proposed amendments to Form N-8B-2 (which will affect the disclosures provided on Form S-6), each UIT-ETF would incur a one-time burden of an additional 20 hours, at a time cost of an additional \$6,710, to draft and finalize the required disclosure and amend its Form S-6.¹³ Amortizing this one-time burden for UIT-ETFs over a three-year period results in an average annual burden of an additional 6.67 hours, at a time cost of an additional \$2,236.67,

¹² This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2014.

¹³ This estimate is based on the following calculation: 20 hours x \$335.50 (blended rate for a compliance attorney (\$352) and a senior programmer (\$319)) = \$6,710. These per-hour figures are from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

for each UIT-ETF. In total, we estimate that existing UIT-ETFs would incur a total annual burden of an additional 53 hours, at a time cost of an additional \$17,893.¹⁴

We estimate that each UIT ETF would incur an ongoing burden of an additional 10 hours, at a time cost of an additional \$3,355, each year to review and update the proposed disclosures on Form S-6.¹⁵ In the aggregate, we estimate that UIT-ETFs would incur an annual burden of an additional 80 hours,¹⁶ at a time cost of an additional \$26,840,¹⁷ to comply with the proposed Form N-8B-2 disclosure requirements on Form S-6.

In total, therefore, we estimate that UIT-ETFs would incur an annual burden of an additional 133 hours, at a time cost of an additional \$44,733.

Table 1: Summary of Revisions to Annual Responses, Burden Hours, and Burden-Hour Costs Estimates for Information Collections

Information Collection	Annual No. of Responses			Annual Time Burden (Hrs.)			Burden Cost Burden (\$)		
	<i>Previously approved</i>	<i>Requested</i>	<i>Change</i>	<i>Previously approved</i>	<i>Requested</i>	<i>Change</i>	<i>Previously approved</i>	<i>Requested</i>	<i>Change</i>
Form S-6	2,498	2,056	-442	106,620	106,753	133	67,359,556	67,404,289	44,733

14. Costs to Federal Government

The annual cost of reviewing and processing disclosure documents, including new registration statements, post-effective amendments, proxy statements, shareholder reports, and other filings of investment companies 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

The estimated hourly burden associated with Form S-6 has increased from 106,620 to 106,753 (an increase of 133). In addition, the cost burden associated with

¹⁴ These estimates are based on the following calculations: 6.67 hours x 8 UIT-ETFs = 53.36 hours (rounded to nearest hour = 53 hours); \$2,236.67 x 8 UIT-ETFs = \$17,893.36 (rounded to nearest dollar = \$17,893).

¹⁵ This estimate is based on the same \$335.50 per-hour rate discussed *supra* in footnote 13 (blended rate for a compliance attorney (\$352) and a senior programmer (\$319)).

¹⁶ This estimate is based on the following calculation: 10 hours x 8 UIT-ETFs = 80 hours.

¹⁷ This estimate is based on the following calculation: \$3,355 x 8 UIT-ETFs = \$26,840.

Form S-6 has increased from \$67,359,556 to \$67,404,289 (an increase of \$44,733). The changes in burden hours and external cost burdens are due to the staff's estimates of the time costs and external costs that would result from our proposed amendments to Form N-8B-2 for UIT-ETFs.

16. Information Collection Planned for Statistical Purposes

The results of any information collected will not be published.

17. Approval to Omit OMB Expiration Date

The Commission is not seeking approval to not display the expiration date for OMB approval.

18. Exceptions to Certification for Paperwork Reduction Act Submission

The Commission is not seeking an exception to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of information will not employ statistical methods.