

**SUPPORTING STATEMENT**  
**For the Paperwork Reduction Act Information Collection Submission for**  
**Rule 154**

**A. JUSTIFICATION**

**1. Necessity for the Information Collection**

The federal securities laws generally prohibit an issuer, underwriter, or dealer from delivering a security for sale unless a prospectus meeting certain requirements accompanies or precedes the security. Rule 154 (17 CFR 230.154) under the Securities Act of 1933 (15 U.S.C. 77a) (the “Securities Act”) permits, under certain circumstances, delivery of a single prospectus to investors who purchase securities from the same issuer and share the same address (“householding”) to satisfy the applicable prospectus delivery requirements.<sup>1</sup> The purpose of rule 154 is to reduce the amount of duplicative prospectuses delivered to investors sharing the same address.

Under rule 154, a prospectus is considered delivered to all investors at a shared address, for purposes of the federal securities laws, if the person relying on the rule delivers the prospectus to the shared address and the investors consent to the delivery of a single prospectus.

The rule applies to prospectuses and prospectus supplements. Currently, the rule permits householding of all prospectuses by an issuer, underwriter, or dealer relying on the rule if, in addition to the other conditions set forth in the rule, the issuer, underwriter, or dealer has

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<sup>1</sup> The Securities Act requires the delivery of prospectuses to investors who buy securities from an issuer or from underwriters or dealers who participate in a registered distribution of securities. See Securities Act sections 2(a)(10), 4(1), 4(3), 5(b) (15 U.S.C. 77b(a)(10), 77d(1), 77d(3), 77e(b)); see also rule 174 under the Securities Act (17 CFR 230.174) (regarding the prospectus delivery obligation of dealers); rule 15c2-8 under the Securities and Exchange Act of 1934 (17 CFR 240.15c2-8) (prospectus delivery obligations of brokers and dealers).

obtained from each investor written or implied consent to householding.<sup>2</sup> The rule requires issuers, underwriters, or dealers that wish to household prospectuses with implied consent to send a notice to each investor stating that the investors in the household will receive one prospectus in the future unless the investors provide contrary instructions. In addition, at least once a year, issuers, underwriters, or dealers relying on rule 154 for the householding of prospectuses relating to open-end management investment companies that are registered under the Investment Company Act of 1940 (“mutual funds”) must explain to investors who have provided written or implied consent how they can revoke their consent. Preparing and sending the notice and the annual explanation of the right to revoke are collections of information.

## **2. Purpose and Use of the Information Collection**

The rule allows issuers, underwriters, or dealers to household prospectuses if certain conditions are met. Among the conditions with which a person relying on the rule must comply are providing notice to each investor that only one prospectus will be sent to the household and, in the case of issuers that are mutual funds, providing to each investor who consents to householding an annual explanation of the right to revoke consent to the delivery of a single prospectus to multiple investors sharing an address. The purpose of the notice and annual explanation requirements of the rule is to ensure that investors who wish to receive individual copies of prospectuses are able to do so.

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<sup>2</sup> Rule 154 permits the householding of prospectuses that are delivered electronically to investors only if delivery is made to a shared electronic address and the investors give written consent to householding. Implied consent is not permitted in such a situation. See rule 154(b)(4).

### **3. Consideration Given to Information Technology**

The Commission's electronic filing project (Electronic Data Gathering, Analysis and Retrieval System or "EDGAR") is designed to automate the filing, processing and dissemination of full disclosure filings. The system permits publicly held companies to transmit their filings to the Commission electronically. Such automation has increased the speed, accuracy and availability of information, generating benefits to investors and financial markets. Prospectuses are required to be filed with the Commission electronically on EDGAR. (17 CFR 232.101(a)(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 if the investors consent.<sup>3</sup> The Commission has no information concerning the percentage of prospectuses that are sent electronically, but believes it is a small percentage. For the purposes of Part II of Form 83-I, the Commission estimates 2% of these documents are sent electronically.

### **4. Duplication**

The requirements of rule 154 are not duplicated elsewhere in federal securities laws, and similar information is not available from other sources.

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<sup>3</sup> See Use of Electronic Media for Delivery Purposes, Securities Act Rel. No. 7233; Exchange Act Rel. No. 36345; Investment Company Act Rel. No. 21399 (Oct. 6, 1995) (60 FR 53458 (Oct. 13, 1995)). In addition, rule 172 under the Securities Act allows certain issuers to satisfy the prospectus delivery obligations of Section 5(b)(2) of that Act through electronic delivery, if certain specified conditions are met. (17 CFR 230.172). However, the electronic delivery provisions of rule 172 do not apply to registered management investment companies or business development companies. See 17 CFR 230.172(d)(1) and (2).

**5. Effect on Small Entities**

Rule 154 is available to any issuer, underwriter, or dealer, including those that are small entities, that wishes to meet its prospectus delivery requirements by transmitting a single prospectus to multiple investors sharing an address. Any issuer, underwriter, or dealer that wishes to rely on rule 154 must comply with its information collection requirements. These requirements are necessary for investor protection.

**6. Consequences of Not Conducting Collection**

Rule 154 requires issuers, underwriters, or dealers that wish to household prospectuses with implied consent to send a notice to each investor stating that the investors in the household will receive one prospectus in the future unless the investors provide contrary instructions. In addition, at least once a year, issuers, underwriters, or dealers relying on rule 154 for the householding of mutual fund prospectuses must explain to investors who have provided written or implied consent how they can revoke their consent. Less frequent collection would result in investors who wish to receive individual copies of prospectuses not being able to do so unless the investors remember without any reminders to inform the issuer, underwriter, or dealer of such a wish. The purpose of the notice and annual explanation requirements associated with the rule is to ensure that investors who wish to receive individual copies of prospectuses are able to do so. In addition, the rule only requires the notice informing investors of the householding of prospectuses to be sent once, before householding begins.

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

None.

**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 rule 154 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.

**12. Burden of Information Collection**

The purpose of the notice and annual explanation requirements is to give reasonable assurance that all investors have access to the prospectus. Preparing and sending the notice and the annual explanation of the right to revoke consent are collections of information. The notices are typically short, one-page statements that are enclosed with other written materials sent to shareholders, such as annual shareholder reports or account statements. The Commission estimates that the annual burden associated with the notice requirement of the rule is 20 hours

per respondent. In addition, the Commission estimates that the annual burden for preparing and delivering the annual explanation of the right to revoke is 1 hour per respondent. Although rule 154 is not limited to mutual funds, the Commission believes that it will be used mainly by mutual funds and by broker-dealers that deliver mutual fund prospectuses. The Commission estimates that, as of August 2018, there are approximately 1,590 mutual funds, approximately 400 of which engage in direct marketing and therefore deliver their own prospectuses. Of the approximately 400 mutual funds that engage in direct marketing, the Commission estimates that approximately half of these mutual funds (200) (i) do not send the implied consent notice requirement because they obtain affirmative written consent to household prospectuses in the fund's account opening documentation; or (ii) do not take advantage of the householding provision because of electronic delivery options which lessen the economic and operational benefits of rule 154 when compared with the costs of compliance. Therefore, the Commission estimates that each direct-marketed fund will spend an average of 20 hours per year complying with the notice requirement of the rule, for a total of 4,000 hours at a cost of \$662,666.<sup>4</sup> Of the approximately 400 mutual funds that engage in direct marketing, the Commission estimates that

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<sup>4</sup> Calculated as follows: 200 mutual funds x 20 hours per annum = 4,000 hours per annum; the staff estimates that two-thirds of each fund's annual hourly burden is performed by clerical staff preparing and mailing notices (4,000 hours x 2/3 x \$59 per hour for a General Clerk = \$157,333) and the remaining one-third is performed evenly by compliance personnel using a blended average hourly rate of \$379 for the Chief Compliance Officer, Compliance Attorney and Compliance Manager (4,000 hours x 1/3 x \$379 per hour = \$505,333). Therefore, the total cost for 4,000 burden hours is \$662,666 (\$157,333+ \$505,333). All hourly rates in this Supporting Statement are derived from the average annual salaries reported in 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.

approximately seventy-five percent (300) of these funds will each spend 1 hour complying with the annual explanation of the right to revoke requirement of the rule, for a total of 300 hours at a cost of \$17,700.<sup>5</sup>

The Commission estimates that there are approximately 175 broker-dealers that carry customer accounts for the remaining mutual funds and therefore may be required to deliver mutual fund prospectuses. The Commission estimates that each affected broker-dealer will spend, on average, 20 hours complying with the notice requirement of the rule, for a total of 3,500 hours at a cost of \$579,834.<sup>6</sup> Each broker-dealer will also spend one hour complying with the annual explanation of the right to revoke requirement, for a total of 175 hours at a cost of \$10,325.<sup>7</sup> Therefore, the total number of respondents for rule 154 is 475 (300<sup>8</sup> mutual funds plus 175 broker-dealers), and the estimated total hour burden is approximately 7,975 hours

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<sup>5</sup> The Commission estimates that approximately 25 percent (100) of the 400 mutual funds that engage in direct marketing do not take advantage of the householding provision (and therefore do not prepare annual notices to shareholders), because, as discussed above, the benefits of the rule do not outweigh the costs of compliance. The staff has estimated the burden hour cost to be \$17,700 (300 burden hours x \$59 per hour for a General Clerk).

<sup>6</sup> Calculated as follows: 175 broker-dealers x 20 hours per annum = 3500 hours per annum; the staff estimates that two-thirds of each broker-dealer's annual hourly burden is performed by clerical staff preparing and mailing notices (3500 hours x 2/3 x \$59 per hour for a General Clerk = \$137,667) and the remaining 1/3 is performed evenly by compliance personnel using a blended average hourly rate of \$379 for the Chief Compliance Officer, Compliance Attorney and Compliance Manager (3500 hours x 1/3 x \$379 per hour = \$442,167). Therefore, the total cost for 3500 burden hours is \$579,834 (\$137,667+ \$442,167).

<sup>7</sup> The staff has estimated the burden hour cost to be \$10,325 (175 burden hours x \$59 per hour for a General Clerk).

<sup>8</sup> The Commission estimates that 200 mutual funds prepare both the implied consent notice and the annual explanation of the right to revoke consent + 100 mutual funds that prepare only the annual explanation of the right to revoke.

(4,300 hours for mutual funds plus 3,675 hours for broker-dealers). The Commission estimates the cost of the hourly burden to be \$1,270,525.<sup>9</sup>

**Table 1: Summary of Revised Annual Responses, Burden Hours, and Burden Hour Costs Estimates for Each Information Collection**

| Rule 154 ICs   | 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> |
| IC 1: Notice (mutual funds)  | 205                        | 200              | (5)           | 4100                       | 4000             | (100)         | \$657,367                  | \$662,666        | \$5299        |
| IC 2: Explanation of rights (mutual funds)                                 | 102                        | 100              | (2)           | 308                        | 300              | (8)           | \$17,556                   | \$17,700         | \$144         |
| <b>Both</b> IC1 and IC2: Notice and explanation of rights (broker-dealers) | 200                        | 175              | (25)          | 4200                       | 3675             | (525)         | \$652,733                  | \$590,159        | (\$62,574)    |
| Total for all ICs  | 507                        | 475              | (32)          | 8608                       | 7975             | (633)         | \$1,327,656                | \$1,270,525      | (\$57,131)    |

### 13. Cost to Respondents

The Commission believes there will be no other financial costs since much of the delivery process has been automated by the industry, the householding notice usually accompanies other documents transmitted to shareholders (*e.g.*, the annual shareholder report), and the required notices are generally short in length.

<sup>9</sup> This estimate is based on the following calculation: \$662,666 + \$17,700 + \$579,834 + (continued . . .)



**14. Costs to Federal Government**

The rule does not impose any additional costs on the Federal government.

**15. Changes in Burden**

The decrease in burden from 8,608 hours to 7,975 hours (a decrease of 633 hours) is due to a decrease in the number of direct-marketed mutual funds and a decrease in the number of broker-dealers that carry customer accounts and which, therefore, may be required to deliver mutual fund prospectuses.

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

Not applicable.

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

Not applicable.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

Not applicable.

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

Not applicable.

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\$10,325 = \$1,270,525.