

**SUPPORTING STATEMENT**  
**For the Paperwork Reduction Act Information Collection Submission for**  
**FORM N-3**

**A. JUSTIFICATION**

**1. Necessity for the Information Collection**

Form N-3 (17 CFR 239.17a and 274.11b) is the form used by separate accounts offering variable annuity contracts which are organized as management investment companies to register 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”).

Form N-3 is also the form used to file a registration statement under the Securities Act (and any amendments thereto) for variable annuity contracts funded by separate accounts which would be required to be registered under the Investment Company Act as management investment companies except for the exclusion provided by Section 3(c)(11) of the Investment Company Act (15 U.S.C. 80a-3(c)(11)). 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, and section 8 of the Investment Company Act (15 U.S.C. 80a-8) requires a separate account to register as an investment company.

Form N-3 also permits separate accounts offering variable annuity contracts which are organized as investment companies to provide investors with a prospectus and a statement of additional information (“SAI”) covering essential information about the separate account when it makes an initial or additional offering of its securities. 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.

On June 5, 2018, the Commission issued a release adopting new rule 30e-3 under the Investment Company Act and certain amendments to other rules and forms.<sup>1</sup> New rule 30e-3 will provide certain funds and unit investment trusts with an optional method to satisfy shareholder report transmission requirements by making such reports and certain other materials publicly accessible on a website, as long as they satisfy certain other conditions of the rule regarding (a) availability of the report and other materials; (b) notice to investors of the website availability of the report; and (c) delivery of paper copies of materials upon request. In connection with our adoption of rule 30e-3, the Commission is amending certain rules and forms including Form N-3. Form N-3 is amended to require certain legend requirements on the prospectuses and annual and semi-annual reports if relying on rule 30e-3. Responses to the disclosure requirements are not kept confidential.

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

The title for the collection of information is: Form N-3 under the Securities Act of 1933 and under the Investment Company Act of 1940, registration of separate accounts organized as management investment companies. The purpose of Form N-3 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 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**

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<sup>1</sup> See Securities Act Release No. 10506 (June 5, 2018) [83 FR 29158 (June 22, 2018)] (“Adopting Release”).

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 N-3 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 Internet Web site (<http://www.sec.gov>) or at EDGAR terminals located at the Commission's public reference rooms. Prospectuses and SAIs may be sent to investors by electronic means so long as certain requirements are met.<sup>2</sup>

#### **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-3 are not generally duplicated elsewhere.

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

The current disclosure requirements for Form N-3 do not distinguish between small entities and larger entities. The burden on smaller entities may be greater than for larger entities. This burden includes the cost of producing, printing, and filing, and disseminating prospectuses and SAIs. 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

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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)].

Regulatory Flexibility Act, to identify methods to minimize recordkeeping or reporting requirements affecting small businesses.

**6. Consequences of Not Conducting Collection**

The purpose of Form N-3 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 the 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 the security.

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

Not Applicable.

**8. Consultation Outside the Agency**

The Commission requested public comment on the collection requirements for conditioning reliance on rule 30e-3 with requirements to require legends on prospectuses and semi-annual and annual reports before it submitted this request for revision and approval to the Office of Management and Budget. The Commission did not receive comments regarding these collection requirements with respect to Form N-3. 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 staff with a means of ascertaining and acting upon paperwork burdens confronting the industry.

**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 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 1/29/2016, is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>.

## **12/13. Estimate of Hour and Cost Burden of Information Collection**

Separate accounts organized as management investment companies and offering variable annuities register as investment companies under the Investment Company Act and register their securities under the Securities Act on Form N-3. Form N-3 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 hour and cost burden estimates for preparing and filing Form N-3 are based on the Commission's experience with the contents of the form. The number of burden hours and cost may vary depending on, among other things, the complexity of the filing and whether preparation of the form is performed by internal staff or outside counsel. The following estimates of average burden hours and costs are made solely for purposes of the

Paperwork Reduction Act<sup>3</sup> and are not derived from a quantitative, comprehensive, or even representative survey or study of the burdens associated with Commission rules and forms.

In our most recent Paperwork Reduction Act submission for Form N-3, Commission staff estimated the annual compliance burden to comply with the collection of information requirement of Form N-3 to be 2,500 burden hours and \$164,144 in external costs.<sup>4</sup>

Pursuant to the amendments in connection with the rule 30e-3 adoption, we estimate that these funds will incur 1 burden hour for the first summary prospectus, statutory prospectus, or shareholder report reflecting these requirements and 0.5 hours for each additional summary prospectus, statutory prospectus, or annual and semi-annual report reflecting these requirements.

These related disclosure requirements will only apply during the extended transition period. In light of the short period during which these additional requirements will be effective and the modest impact they are likely to have on external service providers such as website hosting services, outside counsel and auditors, and printing and mailing services, we do not expect them to result in additional expenses passed on to funds by their service providers in the form of additional external cost burden. Thus, we do not estimate there will be any external costs to comply with these disclosure requirements.

We estimate that there are 14 funds that could file registration statements or amendments to registration statements on Form N-3.<sup>5</sup> Of this group, we estimate that 13 funds will rely on

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<sup>3</sup> 44 U.S.C. 3501 *et seq.*

<sup>4</sup> These estimates are based on the last time the form's information collection was submitted for PRA renewal in 2017. These external costs include service providers such as outside counsel, auditors, website hosting, and printing and mailing services.

<sup>5</sup> This estimate is based on data from Commission filings as well as Investment Company Institute statistics as of December 31, 2017, available at <http://www.ici.org/research/stats>.

rule 30e-3.<sup>6</sup> Consequently, we estimate that the total annual hour burden associated with the amendments to Form N-3 and relating to statutory prospectuses is 7 hours.<sup>7</sup> In addition, we estimate that the total annual hour burden associated with the amendments to Form N-3 is 11 hours.<sup>8</sup> In total, we estimate that the aggregate annual hour burden associated with the amendments to Form N-3 will be 18 hours per year.<sup>9</sup>

We estimate that with the additional hour burdens associated with the amendments the total annual internal burden to comply would be 2,518 burden hours for Form N-3.<sup>10</sup> Based on the Commission's estimate of 2,518 hours and an estimated wage rate of about \$284 per hour,<sup>11</sup> the total annual cost to registrants of the hour burden for complying with the amendments to Form N-3 is about \$715,000.<sup>12</sup>

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<sup>6</sup> 14 filers  $\times$  0.9 = 13 filers.

<sup>7</sup> 13 filers  $\times$  1 hour in the first year = 13 hours. 13 filers  $\times$  0.5 hours in the second year = 7 hours. 13 filers  $\times$  0 hours in the third year = 0 hours. (13 + 7 + 0 hours)  $\div$  3 years = 7 hours per year on an amortized basis.

<sup>8</sup> 13 filers  $\times$  (1 hour for the first report in the first year + 0.5 hours for the second report in the first year) = 20 hours. 13 funds  $\times$  0.5 hours  $\times$  2 reports in the second year = 13 hours. 13 filers  $\times$  0 hours in the third year = 0 hours. (20 + 13 + 0 hours)  $\div$  3 years = 11 hours per year on an amortized basis.

<sup>9</sup> 18 hours = 7 hours + 11 hours.

<sup>10</sup> This estimate is based on the following calculation: 2,500 + 18 = 2,518 hours.

<sup>11</sup> The Commission's estimate concerning the wage rate is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association. The estimated wage figure is based on published rates for intermediate accountants and attorneys, modified to account for an 1,800-hour work year; multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead; and adjusted to account for the effects of inflation, yielding effective hourly rates of \$166 and \$401, respectively. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013. We estimate that intermediate accountants and attorneys will divide their time equally, yielding an estimated hourly wage rate of \$284. (\$166 per hour for intermediate accountants + \$401 per hour for attorneys)  $\div$  2 = \$284 per hour.

<sup>12</sup> 2,518 hours per year  $\times$  \$284 per hour = \$715,112 per year.

**Table 1: Summary of Revised Annual Responses, Burden Hours, and Burden Hour Costs for Form N-3**

<b>No. of Responses</b>	<b>Burden Hours</b>	<b>Burden Hour Costs</b>
<b>13</b>	<b>2,518</b>	<b>\$715,112</b>

**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 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. A portion of those costs relate to processing and reviewing Form N-3 filings submitted to the Commission.

**15. Change in Burden**

The total annual hour burden of 2,518 hours represents an increase of 18 hours over the previous burden hour estimate of 2,500 hours. In addition, the annual external cost burden of \$164,144 has not changed. The changes in burden hours are due to the staff's estimates of the time costs that would result from our amendments to Form N-3 in connection with the adoption of rule 30e-3.

**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 for design and IT project scheduling reasons. 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.