

**SUPPORTING STATEMENT**  
**For the Paperwork Reduction Act Information Collection Submission for**  
**Form N-17D-1 (3235-0229)**

**A. JUSTIFICATION**

**1. Necessity for the Information Collection**

Section 17(d) of the Investment Company Act [15 U.S.C. 80a-17(d)] (the “Act”) authorizes the Commission to adopt rules that protect investment companies (“funds”) and their shareholders from self-dealing and other forms of overreaching by affiliated persons when the fund and the affiliated person participate in any joint enterprise or other joint arrangement or profit-sharing plan.<sup>1</sup> Rule 17d-1 under the Act [17 CFR 270.17d-1] prohibits funds and their affiliated persons from participating in a joint enterprise, unless an application regarding the transaction has been filed with and approved by the Commission. Subparagraph (d)(3) of the rule provides an exemption from this requirement for any loan or credit advance to, or acquisition of securities or other property of, a small business concern, or any agreement to do any of these transactions (“investments”) made by a small business investment company (“SBIC”) and a bank that is an affiliated person of (1) the SBIC or (2) an affiliated person of the SBIC (“affiliated bank”). The exemption requires the Commission to prescribe reports about the investments, and the Commission has designated Form N-17D-1 (“form”) as the form for reports required by rule 17d-1(3).<sup>2</sup>

An SBIC and its affiliated bank must file Form N-17D-1, which has two parts, with the Commission. Part I describes any investment in a small business concern made at the same time

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<sup>1</sup> See 15 U.S.C. 80a-2(a)(3) (definition of “affiliated person”).

by the SBIC and the affiliated bank (or an investment made by either entity when the other has an existing investment). The SBIC must list the name and address of the small business concern and the nature of its business, and the name and address of the affiliated bank and the basis of its affiliation with the SBIC. The SBIC and the affiliated bank also must report any outstanding investments in the small business concern, and the small business concern's use of the proceeds of investments made during the reporting period. If the SBIC invested at the same time or after the affiliated bank, the report must state any changes in the nature and amount of the affiliated bank's investment during the period beginning a year before the SBIC's investment up to the date of the report. Finally, the report must state the name of any affiliated person of the SBIC or the affiliated bank (or any affiliated person of any affiliated person of the SBIC or affiliated bank) who has any interest in the transactions, the basis of the affiliation, the nature of the interest, and the consideration the affiliated person received or will receive.

Part II of the form requires a report about any disposition of an investment, default in the payment of interest or principal, or extension or modification of the terms of any investment made by an SBIC in a small business concern in which an affiliated bank also has invested. The report must identify the investment and describe in detail any disposition, default, extension, or modification involved. If the SBIC has disposed of an investment, the report must state the profit or loss realized. If a loss was sustained, default occurred, or the terms of the investment were extended or modified, the report must describe the circumstances of the event.

The SBIC and affiliated bank must file a form for every semi-annual accounting period

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<sup>2</sup> See 17 CFR 270.17d-2.

during which one or more of the events referenced in Part I or II occurred. The SBIC and the affiliated bank may file the form jointly or separately, as long as the separate reports together contain all the information requested by the form. The Commission processes but does not review the form routinely. The form is available to members of the public for inspection and copying. Therefore, it is useful for any person who wishes to monitor joint transactions by SBICs and their affiliated banks.

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

As discussed above, Form N-17D-1 provides information to the Commission and the public about joint transactions by SBICs and their affiliated banks. Joint transactions with affiliates create the risk that the affiliated persons of the SBIC may engage in self-dealing or other forms of overreaching at the expense of shareholders. Disclosures on the form provide information about these joint transactions to persons seeking to make an informed decision about investing in an SBIC. The form also affords the Commission the opportunity to monitor compliance with the Act in this area.

If the Commission did not collect the information contained in the form, neither the Commission nor the investing public would be able to monitor or evaluate the potentially abusive joint transactions engaged in by SBICs and their affiliated banks. If the rules did not permit SBICs to file the form, SBICs would have to go through the more time-consuming and expensive process of filing an application for an exemptive order from the Commission. Thus, the exemption conditioned on filing the form allows SBICs greater flexibility to engage in these joint transactions.

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

The Commission's electronic filing system, called EDGAR, for Electronic Data Gathering, Analysis and Retrieval, is designed to automate the filing, processing, and dissemination of full disclosure filings. Form N-17D-1 is not currently required to be filed on EDGAR, but may be in the future.

### **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 N-17D-1 does not call for duplicative information and the information called for in the form is not otherwise available to the Commission or the public.

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

The form was developed to meet the special needs of SBICs, many of which are small entities. As discussed above, one of the purposes of the form is to allow such entities to avoid the more onerous and expensive exemptive application process. The Commission believes the benefits of disclosure to investors and the flexibility to SBICs of filing the form justify the costs of providing the information on the form.

### **6. Consequences of Not Conducting Collection**

SBICs and affiliated banks must file a form no later than 30 days after the six-month accounting period in which the contemporaneous investment occurs. Less frequent collection would permit the potentially abusive affiliated transactions to proceed for too long without disclosure to the Commission and investors. Investors could be harmed and the Commission would have no meaningful way of making a current assessment of these transactions.

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

None.

**8. Consultations Outside the Agency**

The Commission adopted the form, after notice and public comment, on November 17, 1961.<sup>3</sup> The Commission requested public comment on the collection of information requirements of Form N-17D-1 before it submitted this request for extension and approval to the Office of Management and Budget. The Commission received no comments in response to this request.

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 the 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

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<sup>3</sup> Adoption of Rules and a Related Form Applicable to Small Business Investment Companies Licensed by the Small Business Administration to Provide Exemption from Certain

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. Burden of Information Collection**

Most of the information requested on the form should be readily available to the SBIC or the affiliated bank in records kept in the ordinary course of business, or with respect to the SBIC, pursuant to the recordkeeping requirements under the Act. Commission staff estimates that it should take approximately one hour for an accountant or other professional to complete the form.<sup>4</sup> There is one SBIC that may file the form annually.<sup>5</sup> No SBIC has filed the form in recent years, however. Thus, Commission staff estimates that one SBIC is likely to file the form in any year. Thus, the estimated total annual burden of filling out the form is 1 hour, at an estimated total annual cost of \$216.<sup>6</sup>

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Requirements of Sections 17(a), 17(d) and 18(c) of the Investment Company Act of 1940, Investment Company Act Release No. 3361 (Nov. 17, 1961) [26 FR 11239 (Nov. 29, 1961)].

<sup>4</sup> This estimate of hours is based on conversations with representatives of SBICs and accountants.

<sup>5</sup> As of October 22, 2019, one SBIC was registered with the Commission.

<sup>6</sup> The estimated wage figure is based on published rates for Senior Accountants (\$216). The \$216/hour figure for a Senior Account is from Securities Industry and Financial Markets Association's Management & Professional Earnings in the Securities Industry 2013, modified by

The estimate of average burden hours is made solely for purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

**Table 1: Summary of Revised Annual Responses, Burden Hours, and Cost Estimates**

| IC Title     | Annual no. of Responses    |                  |               | Annual Time Burden (Hrs.)  |                  |               | Annual Cost (\$)           |                  |               |
|--------------|----------------------------|------------------|---------------|----------------------------|------------------|---------------|----------------------------|------------------|---------------|
|              | <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 N-17D-1 | 1                          | 1                | 0             | 1                          | 1                | 0             | 201                        | 216              | +15           |

### **13. Cost to Respondents**

Commission staff estimates that the only cost burden of the form is identified in item 12 of this Supporting Statement.

### **14. Cost to Federal Government**

The Commission processes, but does not review, the reports on Form N-17D-1. The Commission's operational cost of processing the form is nominal.

### **15. Changes in Burden**

The estimated burden hours associated with Form N-17D-1 is estimated to be 1 hour and no external cost burden. There were no changes to the annual hour burden and the annual cost burden. The increase in the estimated annual total burden from \$201 to \$216 is based on an increase in the estimated per-hour wage rate of a senior accountant.

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

Not applicable.

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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.

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

Not applicable.

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

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

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

The collection of information will not employ statistical methods.