

**SUPPORTING STATEMENT**  
**For the Paperwork Reduction Act Information Collection Submission for**  
**Investment Company Act Rule 30b1-10 and Form N-LIQUID (proposed to be re-titled as**  
**“Form N-RN”)**

**A. JUSTIFICATION**

**1. Necessity for the Information Collection**

Section 30(b) of the Investment Company Act of 1940 [15 U.S.C. 80a-30(b)] (“Act”) provides that “[e]very registered investment company shall file with the Commission...such information, documents, and reports (other than financial statements), as the Commission may require, to keep reasonably current the information and documents contained in the registration statement of such company...” Rule 30b1-10 under the Act [17 CFR 270.30b1-10], currently entitled as “Current report for open-end management investment companies,” provides that every registered open-end management investment company, or series thereof (but not a fund that is regulated as a money market fund under § 270.2a-7), that experiences any event specified on Form N-LIQUID, must file with the Commission a current report on Form N-LIQUID within the period specified in that form. Similar to Form 8-K under the Securities Exchange Act of 1934 [17 CFR 249.308] or Form N-CR under the Investment Company Act [17 CFR 270.30b1-8] for money market funds, Form N-LIQUID requires disclosure, by means of a current report filed with the Commission, of certain specific reportable events.

Rule 30b1-10 and Form N-LIQUID require open-end investment companies, including exchange-traded funds that redeem in kind (“In-Kind ETFs”) but not including money market funds, to file a current report on Form N-LIQUID on a non-public basis when certain events related to their liquidity occur.<sup>1</sup> The information reported on Form N-LIQUID concerns events under which more than 15% of a fund’s or In-Kind ETF’s net assets are, or become, illiquid

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<sup>1</sup> Investment Company Act Release No. 33-10233 (Oct. 13, 2016).

investments that are assets as defined in rule 22e-4 and when holdings in illiquid investments are assets that previously exceeded 15% of a fund's net assets have changed to be less than or equal to 15% of the fund's net assets.<sup>2</sup> The information reported on Form N-LIQUID also regards events under which a fund's holdings in assets that are highly liquid investments fall below the fund's highly liquid investment minimum for more than 7 consecutive calendar days. A report on Form N-LIQUID is required to be filed, as applicable, within one business day of the occurrence of one or more of these events.<sup>3</sup> Compliance with rule 30b1-10 is mandatory for all funds other than money market funds. Responses to the disclosure requirements will be kept confidential.

On November 25, 2019, the Commission issued a release that, among other things, proposed rule 18f-4 under the Investment Company Act, a new exemptive rule designed to address the investor protection purposes and concerns underlying section 18 of the Act and to provide an updated and more comprehensive approach to the regulation of funds' use of derivatives.<sup>4</sup> The release also includes proposed amendments to funds' reporting requirements, including proposed amendments to Form N-LIQUID (which the Commission proposed to re-title as "Form N-RN") as well as rule 30b1-10 (which the Commission proposed to re-title as "Current report for open-end and closed-end management investment companies") under the Investment Company Act.<sup>5</sup> Proposed rule 18f-4 would generally require funds when engaging in

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<sup>2</sup> See Item C.1 and Item C.2 of Part A of Form N-LIQUID.

<sup>3</sup> See General Instruction A.2 of Form N-LIQUID.

<sup>4</sup> Use of Derivatives by Registered Investment Companies and Business Development Companies; Required Due Diligence by Broker-Dealers and Registered Investment Advisers Regarding Retail Customers' Transactions in Certain Leveraged/Inverse Investment Vehicles Investment Company Act Release No. 33704 (Nov. 25, 2019) ("Derivatives Proposing Release").

<sup>5</sup> References to Form N-LIQUID throughout this Supporting Statement refer to the current form, which includes only liquidity-related reporting items. References to Form N-RN refer to the form as the

derivatives transactions to comply with an outer limit on fund leverage risk based on value at risk, or “VaR.”<sup>6</sup> This outer limit would be based on a relative VaR test that compares the fund’s VaR to the VaR of a “designated reference index” for that fund. If the fund’s derivatives risk manager is unable to identify an appropriate designated reference index, the fund would be required to comply with an absolute VaR test. Proposed rule 18f-4 would require a fund that is subject to the VaR-based limit on fund leverage risk (as applicable, either the relative VaR test or the absolute VaR test—and each, for purposes of this Supporting Statement, the “VaR test”) to file current reports regarding VaR test breaches under the circumstances that Form N-RN specifies.<sup>7</sup> The proposed amendments to rule 30b1-10, as well as the proposed amendments to Form N-LIQUID, reflect this reporting requirement in proposed rule 18f-4.

The proposed amendments to rule 30b1-10 would expand the scope of funds subject to the rule’s current reporting requirement to include those funds that would be subject to the VaR test breach current reporting requirements under proposed rule 18f-4. These funds would include registered open-end funds as well as registered closed-end funds and BDCs, but would not include money market funds.

Under the proposed amendments to Form N-LIQUID, a fund that determines that it is out of compliance with the VaR test under proposed rule 18f-4 and has not come back into compliance within three business days after such determination would have to file a non-public report on Form N-RN providing certain information regarding its VaR test breach. Specifically, if the portfolio VaR of a fund subject to the relative VaR test were to exceed 150% of the VaR of

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Commission proposed to amend it (including both the current liquidity-related reporting items, as well as the proposed new items related to funds’ VaR test breaches).

<sup>6</sup> See proposed rule 18f-4(c)(2).

<sup>7</sup> See proposed rule 18f-4(c)(7).

its designated reference index for three business days, a fund would have to report: (1) the dates on which the fund portfolio's VaR exceeded 150% of the VaR of its designated reference index; (2) the VaR of its portfolio for each of these days; (3) the VaR of its designated reference index for each of these days; (4) the name of the designated reference index; and (5) the index identifier. If the portfolio VaR of a fund subject to the absolute VaR test were to exceed 15% of the value of the fund's net assets for three business days, a fund would have to report: (1) the dates the on which the fund portfolio's VaR exceeded 15% of the value of its net assets; (2) the VaR of its portfolio for each of these days; and (3) the value of the fund's net assets for each of these days.<sup>8</sup> A fund subject to either VaR test breach reporting requirement would have to report this information within one business day following the third business day that the fund determined that its portfolio VaR exceeds its applicable threshold.

Under the proposed amendments, if a fund were to breach either the relative VaR test or absolute VaR test and file a report on Form N-RN, such fund would also have to file a report on Form N-RN when it is back in compliance with the absolute VaR test within one business day. Specifically, a fund must report the dates on which its portfolio VaR exceeded, as applicable, 150% of the VaR of its designated reference index (if the fund is subject to the relative VaR test under proposed rule 18f-4(c)(2)(i)) or exceeded 15% of the value of its net assets (if the fund is subject to the absolute VaR test under proposed rule 18f-4(c)(2)(ii)). Furthermore, a fund must also report the current VaR of its portfolio.

A report on Form N-RN, including the proposed new reporting items, is a collection of information under the PRA.

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

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<sup>8</sup> See proposed Part F of Form N-RN.

Certain provisions of the current rule and form contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501, et seq.]. The current information collection requirements for rule 30b1-10 and Form N-LIQUID are designed to enable the Commission to receive information on fund liquidity events more uniformly and efficiently, and enhance the Commission’s oversight of funds when significant liquidity events occur and its ability to respond to market events. The Commission will be able to use the information provided on Form N-LIQUID in its regulatory, disclosure review, inspection, and policymaking roles.

Likewise, the proposed amendments to rule 30b1-10 and Form N-LIQUID contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501, et seq.]. The proposed new reporting items on Form N-RN, collectively, would aid the Commission in assessing funds’ compliance with the VaR test under proposed rule 18f-4. Form N-RN would also enable the Commission to receive information on events that could impact funds’ leverage-related risk more uniformly and efficiently and would enhance the Commission’s oversight of funds when significant fund and/or market events occur. The Commission would also be able to use the newly-required VaR test breach related information that funds would provide on Form N-RN in its regulatory, disclosure review, inspection, and policymaking roles.

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

The Commission's Electronic Data Gathering, Analysis and Retrieval System (“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. EDGAR has increased the speed, accuracy and availability of information, generating benefits to investors and financial markets. All funds have been required to use

EDGAR for their disclosure filings since November 6, 1995. Form N-RN is required to be filed with the Commission electronically on EDGAR.

#### **4. Duplication**

The Commission periodically evaluates rule-based reporting and recordkeeping requirements for duplication, and reevaluates them whenever it adopts changes in its rules. The requirements of Form N-RN are not generally duplicated elsewhere.

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

The information collection requirements of rule 30b1-10 and Form N- RN do not distinguish between small entities and other funds. The burden of the conditions on smaller funds may be proportionally greater than for larger funds. The Commission believes, however, that imposing different requirements on smaller investment companies would not be consistent with investor protection and the purposes of the rule's conditions and could potentially jeopardize the interests of investors in small funds. The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act, to identify methods to minimize recordkeeping or reporting requirements affecting small businesses.

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

Current rule 30b1-10 and Form N-LIQUID set forth the disclosure requirements for current reports filed by funds to enable the Commission to receive information on fund liquidity events more uniformly and efficiently and will enhance the Commission's oversight of funds when significant liquidity events occur and its ability to respond to market events. Similarly, the proposed amendments would enable the Commission to receive information on events that could impact funds' leverage-related risk more uniformly and efficiently and would enhance the Commission's oversight of funds when significant fund and/or market events occur. Less frequent collection would mean that timely disclosure of information regarding significant

liquidity events, or significant fund or market events related to funds' leverage risks would not be available to the Commission.

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

Under applicable federal regulations, OMB generally will not approve a collection of information that includes a pledge of confidentiality unless the pledge is “supported by disclosure and data security policies that are consistent with the pledge...”<sup>9</sup> In addition, if an agency proposes to collect confidential information, it must be able to “demonstrate that it has instituted procedures to protect the information’s confidentiality to the extent permitted by law.”<sup>10</sup>

Form N-LIQUID elicits non-public information about circumstances when a fund breaches the 15% illiquid investment limit, returns to compliance with the 15% illiquid investment limit, or breaches its highly liquid investment minimum for longer than 7 consecutive calendar days. The proposed amendments to the form would also elicit non-public information about funds’ VaR test breaches, and funds’ return to compliance with the VaR test. When these events occur, reporting to the Commission is necessary to provide the Commission with timely information that may prompt the Commission to inquire further into the circumstances that gave rise to the requirement to file Form N-RN. The Commission finds that it is neither necessary nor appropriate in the public interest or for the protection of investors to make the information currently and proposed to be filed on Form N-RN publicly available and, therefore, does not intend to make public Form N-RN.<sup>11</sup>

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<sup>9</sup> 5 CFR 1320.5(d)(2)(vii).

<sup>10</sup> 5 CFR 1320.5(d)(2)(viii).

<sup>11</sup> *See* section 45(a) of the Investment Company Act, which requires information in investment company forms to be made available to the public, unless the Commission finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors.

In addition, the Commission recognizes the importance of sound data security practices and protocols for non-public information, including information that may be competitively sensitive. The Commission has substantial experience with storage and use of non-public information reported on Form PF and delayed public disclosure of information on Form N-MFP (although the Commission no longer delays public disclosure of reports on Form N-MFP), as well as other non-public information that the Commission handles in its ordinary course of business. The SEC has designed controls and systems for the use and handling of Form N-RN data in a manner that reflects the sensitivity of the data collected and is not inconsistent with 5 CFR 1320.5(d)(2).

#### **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 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. Before adopting the proposed amendments to rule 30b1-10 and Form N-LIQUID, the Commission will receive and evaluate public comments on the proposal and its collection of information requirements.<sup>12</sup>

#### **9. Payment or Gift**

Not applicable.

#### **10. Confidentiality**

See section A.7 of this supporting statement.

#### **11. Sensitive Questions**

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<sup>12</sup> See Derivatives Proposing Release, *supra* note 4 at section IV.G.



The information collection collects basic Personally Identifiable Information (“PII”) that may include names, email addresses, 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. Burden of Information Collection**

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. Compliance with rule 30b1-10 and Form N-LIQUID is mandatory, and compliance with the proposed amendments to this rule and Form N-RN as proposed to be amended likewise would be mandatory.

We estimate that 2,424 funds per year would be required to comply with the VaR test, and the Commission would receive approximately 30 filing(s) per year in response to each of the new VaR-related items that the Commission proposed to include on Form N-RN, as amended.

Under the proposed amendments to Form N-RN, preparing a report on this form would be mandatory for any fund that is out of compliance with its applicable VaR test for more than three business days, as described above, and for any fund that has come back into compliance with its applicable VaR test. A report on Form N-RN is a collection of information under the PRA. The VaR test breach information provided on Form N-RN, as well as the information a fund provides when it has come back into compliance, would enable the Commission to receive

information on events that could impact funds' leverage-related risk more uniformly and efficiently and would enhance the Commission's oversight of funds when significant fund and/or market events occur. The Commission would be able to use the newly-required information that funds would provide on Form N-RN in its regulatory, disclosure review, inspection, and policymaking roles. Responses to the reporting requirements and this collection of information would be kept confidential, subject to provisions of applicable law.

Table 1 below summarizes PRA initial and ongoing annual burden estimates associated with the proposed amendments to funds' current reporting requirement.<sup>13</sup> Staff estimates there will be no external costs associated with this collection of information. We further assume similar hourly and cost burdens, as well as similar response rates, for responses to either a breach of the absolute VaR test or the relative VaR test.

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<sup>13</sup> The Commission's estimates of the relevant wage rates in the tables below are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013. The estimated wage figures are modified by Commission staff to account for an 1,800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013 ("SIFMA Report").

**Table 1: Form N-RN PRA Estimates**

	Internal initial burden hours	Internal annual burden hours	Wage rate <sup>1</sup>	Internal time costs
<b>PROPOSED ESTIMATES</b>				
Relative or absolute VaR test breach reports	0 hour	0.005 hours <sup>2</sup>	× \$365 (compliance attorney)	\$1.83
	0 hour	0.005 hours	× \$331 (senior programmer)	\$1.66
<b>Total new annual burden per fund</b>		<b>0.01 hours</b>		<b>\$3.49</b>
Number of funds		× 2,424		× 2,424
<b>Total new annual burden</b>		<b>24 hours</b>		<b>\$8,460</b>
Current burden estimates		941 hours		
<b>Revised burden estimates</b>		<b>965 hours</b>		

**Notes:**

1. See *supra* note 13. These PRA estimates assume that the same types of professionals would be involved in the proposed reporting requirements that we believe otherwise would be involved in preparing and filing reports on Form N-LIQUID.

2. This estimate is based on the assumption that, of the 2,424 funds that would be required to comply with either of the VaR tests, on average the Commission would receive 30 reports regarding a relative or absolute VaR test breach and that compliance attorney and senior programmer would each spend 30 minutes as part of preparing and submitting this report. See *supra* note 5 at section IV.G.

**Table 2: Change in Burden Estimates**

	Annual Number of Responses			Annual Time Burden (hours)			Cost Burden (dollars)		
	Previously Approved	Revised Estimate	Change	Previously Approved	Revised Estimate	Change	Previously Approved	Revised Estimate	Change
Form N-RN	69	99	30	941	965	+ 24	\$0	\$0	\$0

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

Cost burden is the cost of goods and services purchased to comply with rule 30b1-10 and Form N-RN, such as licensing software solutions or for the services of external service providers. The cost burden does not include the hour burden discussed in Item 12. Estimates are based on the Commission's experience with the filing of registration forms. The Commission estimates that there will be no external costs associated with this collection of information including those arising from the proposed amendments.

### **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 2018, based on the Commission's computation of the value of staff time devoted to this activity and related overhead. A portion of those costs will relate to processing and reviewing Form N-RN filings submitted to the Commission for compliance with rule 30b1-10.

### **15. Change in Burden**

As summarized in **Table 2** above, the estimated hourly burden associated with Form N-RN has increased from 941 hours to 965 hours (an increase of 24 hours). The change in burden hours is due to the estimates of the time burden that will result from the proposed amendments affecting rule 30b1-10 and Form N-RN. The Commission does not estimate any change in cost burden.

### **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 Submission**

Not applicable.

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

Not applicable.