

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Form N-CEN

A. JUSTIFICATION

1. Necessity for the Information Collection

All registered investment companies with the exception of face amount certificate companies are required to file periodic reports with the Commission under the Investment Company Act of 1940 (“Investment Company Act”).¹ Section 30(a) of the Investment Company Act² provides that each registered investment company must file annually with the Commission such information, documents and reports as investment companies having securities registered on a national securities exchange are required to file annually under the Securities Exchange Act of 1934 (“Exchange Act”).³ In addition, Section 30(b) of the Investment Company Act requires each registered investment company to file, among other things, “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.”⁴

Form N-CEN is used to collect annual, census-type information for registered funds. Filers must submit this report electronically using the Commission’s electronic filing system (“EDGAR”) in Extensible Markup Language (“XML”) format. This collection of information is mandatory for all registered funds, and responses are not 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 and the other transactions addressed in the proposed rule.⁵ The release also includes proposed amendments to funds’ reporting requirements, including amendments to

¹ 15 U.S.C. 80a-1 *et seq.*

² 15 U.S.C. 80a-29(a).

³ 15 U.S.C. 78a *et seq.*

⁴ 15 U.S.C. 80a-29(b).

⁵ 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”).

Form N-CEN. The proposed amendments to Form N-CEN would require a fund to identify whether it relied on proposed rule 18f-4 during the reporting period.⁶ In addition, the proposed amendment to Form N-CEN would require a fund to identify whether it relied on any of the exceptions from various requirements under proposed rule 18f-4. A fund would have to identify whether it is a “limited derivatives user” under the rule, excepted from the proposed rule’s derivatives risk management program requirement, either because the fund: (a) limits its derivatives exposure to 10% of its net assets or (b) limits its derivatives use to hedge certain currency risks. A fund would also have to identify whether it is a “leveraged/inverse fund” covered by proposed rule 15l-2 under the Exchange Act or proposed rule 211(h)-1 under the Investment Advisers Act of 1940 that, under proposed rule 18f-4, would be excepted from proposed rule 18f-4’s limit on fund leverage risk.⁷ Finally, a fund would also have to identify whether it has entered into reverse repurchase agreements or similar financing transactions, or unfunded commitment agreements, as provided under the proposed rule.⁸

2. Purpose and Use of the Information Collection

The purpose of Form N-CEN is to satisfy the filing and disclosure requirements of Section 30 of the Investment Company Act, and of rule 30a-1 thereunder. The information required to be filed with the Commission assures the public availability of the information and is designed to facilitate the Commission’s oversight of registered funds and its ability to monitor trends and risks. The proposed amendments would facilitate the Commission’s and staff’s oversight functions by allowing for the identification of which funds were excepted from certain of proposed rule 18f-4’s provisions or relied on the rule’s provisions regarding reverse repurchase agreements and unfunded commitment agreements.

3. Consideration Given to Information Technology

The Commission’s electronic filing system (Electronic Data Gathering, Analysis, and Retrieval or “EDGAR”) provides for automated 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. Reports on Form N-CEN are required to be filed with the Commission electronically on EDGAR in a structured (XML) format which permits the electronic analysis of the data in a single filing and comparisons over time or across similar investment companies.

4. Efforts to Identify Duplication

The Commission periodically evaluates rule-based reporting and recordkeeping requirements for duplication and reevaluates them whenever it proposes a rule or a form or a change in a rule or form. The information provided under reports on Form N-CEN either

⁶ *Id.* at 220-221.

⁷ *Id.*

⁸ *Id.*

is not duplicated elsewhere at all or is not duplicated in a format that permits the electronic analysis of the data in a single filing or in comparison over time or across similar investment companies. Any information solicited by Form N-CEN that may be duplicated in other documents filed with the Commission is in narrative format so that it can be read and understood by investors. The Commission is not able to analyze narrative information electronically on a regular basis, using database or spreadsheet applications.

5. Effect on Small Entities

The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act,⁹ to identify methods to minimize recordkeeping or reporting requirements affecting small businesses. Form N-CEN must be filed by all registered investment companies other than face amount certificate companies, regardless of size. The burden on smaller investment companies, however, to prepare reports on Form N-CEN may be greater than for larger investment companies.

The information collection required by the proposed amendments to Form N-CEN would not distinguish between small entities and other funds in terms of what information would be required to be reported, including the information required by the amendments. The Commission believes that imposing different reporting requirements on smaller funds would not be consistent with investor protection and the purposes of the reports. The Commission also believes that all fund investors, including investors in small funds, would benefit from enhanced Commission monitoring and oversight of the fund industry, which we anticipate would result from the proposed amendments to Form N-CEN.

6. Consequences of Not Conducting Collection

The Commission requires the filing of Form N-CEN annually for all registered investment companies so that it will have current information available for use in performing inspections, selectively reviewing registration documents, and conducting studies and other types of analyses necessary to keep the Commission's regulatory program for investment companies current with industry conditions. Less frequent collection would mean that current information may not be available to investors and may potentially decrease investor confidence in the full and fair disclosure system that is the hallmark of the U.S. capital markets.

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

The Commission and staff of the Division of Investment Management participate in an ongoing dialogue with representatives of the investment company industry through public

⁹ 5 U.S.C. 601 *et seq.*

conferences, meetings, and information exchanges. These various forums provide the Commission and staff with a means of ascertaining and acting upon paperwork burdens confronting the industry. Before adopting the proposed amendments to Form N-CEN, the Commission will receive and evaluate public comments on the proposal and its collection of information requirements.

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. Burden of Information Collection

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act of 1995¹⁰ and are not derived from a comprehensive, or even representative, survey or study of the cost of Commission rules and forms. Compliance with Form N-CEN is mandatory. Responses to the collection of information will not be kept confidential.

Form N-CEN is a structured form that requires registered funds to provide census-type information to the Commission on an annual basis. The Commission currently estimates for Form N-CEN total burden hours of 74,598 and external costs of \$2,088,176.¹¹ The Commission proposed amendments to Form N-CEN to require funds to identify whether they relied on proposed rule 18f-4 during the reporting period.

¹⁰ 44 U.S.C. 3501 *et seq.*

¹¹ This estimate is based on the last time the form’s information collection was submitted for PRA approval in 2017.

TABLE 1: FORM N-CEN PRA ESTIMATES

| | Internal initial burden hours | Internal annual burden hours | Wage rate ¹ | Internal time costs |
|--|----------------------------------|---------------------------------|-------------------------------|------------------------|
| PROPOSED ESTIMATES | | | | |
| Reporting derivatives-related fund census information | 0 hour | 0.01 hours | × \$365 (compliance attorney) | \$3.7 |
| | 0 hour | 0.01 hours | × \$331 (senior programmer) | \$3.3 |
| Total new annual burden per fund | | 0.02 hours | | \$7 |
| Number of funds | | × 12,375 | | × 12,375 |
| Total new annual burden | | 248 hours | | \$86,625 |
| Current burden estimates | | 74,598 hours | | |
| Revised burden estimates | | 74,846 hours | | |

Notes:

1. See Derivatives Proposing Release *supra* note 5 at n.628. 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-CEN.
2. This estimate assumes each fund reporting on Form N-CEN would spend 1 to 2 minutes reporting these new proposed data elements.

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-CEN | 3,113 | 3,113 | 0 | 74,598 | 74,846 | + 248 | \$2,088,176 | \$2,088,176 | 0 |

Table 1 above summarizes our PRA initial and ongoing annual burden estimates associated with the proposed amendments to Form N-CEN based on current Form N-CEN practices and burdens associated with minor amendments to the form. Staff estimates there will be no external costs associated with this collection of information. The Commission estimated that the total hour burdens associated with the proposed amendments to Form N-CEN will result in an average aggregate annual burden of 248 hours. Therefore, the revised aggregate estimate for Form N-CEN, including the proposed amendments, is 74,846 hours.

13. Cost to Respondents

Cost burden is the cost of goods and services purchased to prepare and submit reports on Form N-CEN. The cost burden does not include the hour burden discussed in Item 12 above.

As summarized in Table 2 above, in its most recent Paperwork Reduction Act submission for Form N-CEN, the Commission estimated total external cost burden of \$2,088,176 per year.¹² The Commission does not estimate any change in external cost. Therefore, the revised aggregate estimate for Form N-CEN, including the proposed amendments, is \$2,088,176 in external costs.

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 2018, based on the Commission's computation of the value of staff time devoted to this activity and related overhead.

15. Changes in Burden

As summarized in Table 2 above, the estimated hourly burden associated with Form N-CEN has increased from 74,598 hours to 74,846 hours (an increase of 248 hours). The change in burden hours is due to the estimates of the time burden that will result from our amendments affecting Form N-CEN. The Commission does not estimate any change in cost burden.

16. Information Collection Planned for Statistical Purposes

The results of any information collection will not be published.

¹² This estimate is based on the last time the form's information collection was submitted for PRA approval in 2017.

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

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.