

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
FORM N-2

A. JUSTIFICATION

1. Necessity for the Information Collection

Form N-2 (17 CFR 239.14 and 274.11a-1) is the form used by closed-end management investment companies (“registered closed-end funds”) to register as investment companies under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) (“Investment Company Act”), and to register their securities under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (“Securities Act”). Form N-2 is also used by business development companies (“BDCs”), which are closed-end management investment companies that do not register under the Investment Company Act (but instead elect to be subject to certain provisions of the Investment Company Act (15 U.S.C. 80a-2(a)(48)) to register and offer their securities under the Securities Act.

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. The primary purpose of the registration process is to provide disclosure of financial and other information to current and potential investors for the purpose of evaluating an investment in a security. 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.

A closed-end management investment company (that is not a BDC) is required to register as an investment company under Section 8(a) of the Investment Company Act (15 U.S.C. 80a-8(a)). Form N-2 permits a registered closed-end fund and a BDC to

provide investors with a prospectus covering essential information about the fund when the fund makes an initial or additional offering of its securities. More-detailed information is available to interested investors in the Statement of Additional Information (“SAI”), which is provided to investors upon request and without charge.

On March 20, 2019, the Securities and Exchange Commission (the “Commission”) proposed rule and form amendments that would modify the registration, communications, and offering processes for registered closed-end funds and BDCs (collectively, “affected funds”).¹ The proposed amendments, if adopted, would allow affected funds to use certain Securities Act offering rules that are currently available to operating companies. In addition, the proposed rules would include amendments to certain rules and forms, including Form N-2, that are intended to tailor certain aspects of the Securities Act disclosure and regulatory framework to affected funds. The information collection requirements related to the proposed amendments to Form N-2 would be mandatory; there would be no mandatory retention period for the information disclosed; and the information gathered would be publicly available.

2. Purpose and Use of the Information Collection

The purpose of Form N-2 is to meet the filing and disclosure requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in a closed-end fund or BDC. 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

¹ Securities Offering Reform for Closed-End Investment Companies, Investment Company Act Release No. 33427 (Mar. 20, 2019) (“Proposing Release”).

with securities law requirements and assures the public availability and dissemination of the information.

3. Consideration Given to Information Technology

The Commission's Electronic Data Gathering, Analysis, and Retrieval System ("EDGAR") automates the filing, processing, and dissemination of disclosure filings. This automation has increased the speed, accuracy, and availability of information, generating benefits to investors and financial markets. Registration statements filed on Form N-2 by registered closed-end funds and BDCs are 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 website (<http://www.sec.gov>).

4. Efforts to Identify Duplication

The Commission periodically evaluates rule- and form-based reporting and recordkeeping requirements for duplication, and reevaluates them whenever it proposes or adopts changes in its rules or forms. The requirements of Form N-2 are not generally duplicated elsewhere.

The proposed amendments to Form N-2 do not require duplicative reporting or recordkeeping. Under the proposal, certain affected funds may provide information that is required to be in the affected funds' registration statement by incorporating by reference information from a fund's annual and/or semi-annual report to shareholders or other periodic or current reports into the registration statement. However, because these reports would be incorporated by reference into the fund's prospectus under the proposal, requiring disclosure in both the prospectus and these reports should not result in duplicative disclosure.

5. Effect on Small Entities

Form N-2 must be filed by all closed-end funds, regardless of size. The burden on smaller funds to prepare and file registration statements may be 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 registration statements. 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.

The proposed amendments would permit eligible affected funds (that is, generally those that have a public float of \$75 million or more and meet certain registrant requirements) to forward incorporate by reference information from their reports filed under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (“Exchange Act reports”), which would reduce the need for such funds to file a post-effective amendment or a prospectus supplement to update information in the registration statement. To the extent that the ability to forward incorporate by reference would reduce burdens, this particular reduction in burden hours would not be available for smaller affected funds.

6. Consequences of Not Conducting Collection

In the absence of the disclosure requirements in Form N-2, investors in closed-end funds may not receive information necessary to make informed investment decisions, and consumer confidence in the securities industry could be adversely affected. Form N-2 also satisfies Investment Company Act requirements that certain investment companies must register with the Commission before they conduct business. In the absence of a Form N-2 registration statement, closed-end funds (that are not BDCs) would not be able to comply with the registration requirements of the Investment Company Act, and registered closed-end funds and BDCs would not be able to offer their

shares under the Securities Act.

A closed-end fund must file a registration statement on Form N-2 only when making initial or additional offerings of securities under the Securities Act, or when amending its registration statement. Less-frequent collection would mean that information current to a particular offering would not be available to fund investors and the Commission would not have current information to perform its regulatory functions.

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

Not applicable.

8. Consultation Outside the Agency

The Commission issued a proposing release requesting public comment on the new “collection of information” requirements for the proposed amendments to Form N-2 before it submitted this request for revision and approval to the Office of Management and the associated paperwork burdens. Comments on Commission releases are generally received from registrants, investors, and other market participants. The Commission and staff of the Division of Investment Management also participate in an ongoing dialogue with representatives of the investment company industry and other market participants 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. All comments on the proposal are available at <https://www.sec.gov/comments/s7-03-19/s70319.htm>. The Commission will consider all comments received prior to publishing the final rules as required by 5 CFR 1320.11(f).

9. Payment or Gift

Not applicable.

10. Assurance of 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 for Form N-2 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>.

12/13. Estimates of Hour and Cost Burdens

Form N-2 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 following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and are not derived from a quantitative, comprehensive, or even representative survey or study of the burdens and costs associated with Commission rules and forms.

In our most recently approved Paperwork Reduction Act submission for Form N-2, Commission staff estimated the annual internal compliance burden to comply with the collection of information of Form N-2 to be 74,145 hours, with an annual external cost

burden of \$4,718,196.² That estimate was based, in part, on previously approved estimates of initial and post-effective amendments filed annually on Form N-2, which derive from estimates contained in Form N-2's 2016 PRA submission.³

For purposes of this PRA submission, we updated the previously-approved 2016 PRA renewal estimate of Form N-2 filings based on staff analysis of the number of initial Form N-2 filings and post-effective amendments made during the three-year period from January 1, 2016 through December 31, 2018. Based on the three-year average of the adjusted number of Form N-2 filings, we currently estimate that there are 138 initial registration statements and 302 post-effective amendments to initial registration statements filed on Form N-2 annually.⁴

The proposed amendments to Form N-2 are expected to increase the existing disclosure burdens of the form by requiring: (1) affected funds use new check boxes on the cover page to provide information about the fund, the purpose of the filing, and the type of offering, including whether the form is being used for automatic shelf

² Form N-2's most recent information collection, which OMB approved in [MONTH] 2019, reflects the adoption of amendments requiring Form N-2 registrants to submit the document in HTML format and include a hyperlink to each exhibit identified in its exhibit index. *See* FAST Act Modernization and Simplification of Regulation S-K, Securities Act Release No. 10618 (March 20, 2019) [84 FR 12674 (April 2, 2019)] ("FAST Act Adopting Release").

³ Form N-2's approved 2016 PRA submission estimated that Form N-2 registrants annually file 136 initial registration statements, the preparation and filing of which takes 515 hours each or 70,040 hours total (136 initial registration statements \times 515 hours = 20,040); and 30 post-effective amendments, the preparation and filing of which takes 107 hours each or 3,210 hours total (30 post-effective amendments \times 107 hours = 3,210), for a collective annual hour burden of 73,250 hours (70,040 hours + 3,210 hours) associated with Form N-2. These numbers were based on staff estimates of Form N-2 filings submitted between January 1, 2013 and December 31, 2015.

⁴ Based on the staff's updated analysis, the number of initial registration statement and post-effective amendments filed on Form N-2 were as follows: 129 initial Form N-2s and 290 post-effective amendments in calendar year 2016; 140 initial Form N-2s and 320 post-effective amendments in calendar year 2017; and 144 initial Form N-2s and 296 post-effective amendments in calendar year 2018. The three-year average for initial registration statements is 138 $((129+140+144) \div 3 = 138)$, and for post-effective amendments is 302 $((290 + 320 + 296) \div 3 = 302)$. The increase in number of post-effective amendments filed annually since the 2016 PRA submission largely reflects a change in methodology to estimate such filings.

registration; (2) BDCs to include financial highlights disclosure in their registration statements, as registered closed-end funds are currently required to do; (3) affected funds to provide new undertakings in registration statements being filed pursuant to rule 415 under the Securities Act; and 4) affected funds to make certain documents available online if incorporated by reference into the registration statement.

At the same time, the proposed amendments to Form N-2 would also decrease existing burdens by permitting eligible affected funds to forward incorporate by reference information from their Exchange Act reports, which would reduce the need for such funds to file a post-effective amendment or a prospectus supplement to update information in the registration statement.

On an aggregate net basis, the proposed amendments to Form N-2 are expected to decrease the information collection burdens of the form. Our estimates of the hour and cost burdens of the proposed amendments are based on several estimates and assumptions.⁵

First, we estimated the paperwork burdens of the proposed amendments that would increase the burdens of Form N-2. We expect that the proposed new checkbox requirements and undertakings would incrementally increase the paperwork burden on affected funds because affected funds would be required only to indicate which, if any, of the new checkboxes were applicable, and include the appropriate undertaking if one is required. We estimate that the proposed checkboxes and undertakings together would slightly increase the incremental paperwork burden of the form by 0.5 hours for an

aggregate annual burden of 404 hours.⁶ The proposed amendment to require BDCs to include financial highlights disclosure would also result in an increase in the burdens associated with the form. However, we note that BDCs currently provide this information in their Form N-2 filings. Accordingly, we estimate the proposed financial highlights disclosure requirement would incrementally increase the paperwork burden by 1.5 hours for an aggregate annual burden of 155 hours.⁷

We estimate that the proposed amendment to require an affected fund to make available online its prospectus, SAI, and any Exchange Act reports that are incorporated by reference into the fund's prospectus or SAI would incrementally increase the paperwork burden of the form by 2 hours, for an aggregate annual burden of 1,614 hours.⁸ In determining this estimate, we assumed that all eligible affected funds would take advantage of the incorporation by reference proposals and that the burdens of website posting of incorporated documents would be comparable to the burdens estimated for similar document posting requirements.⁹ Based on this, we estimate that

⁵ In deriving our estimates, we recognize that the burdens will likely vary among affected funds based on a number of factors, including the nature of their business. We believe that some funds may experience hour and cost burdens in excess of our estimated averages and some funds may experience burdens less than our estimated averages. Our estimates have been adjusted to reflect the fact that some of the proposed amendments would not apply to all funds.

⁶ Calculated as follows: 807 (103 BDCs + 704 registered closed-end funds) funds subject to the requirement \times 0.5 hours = 404 hours (rounded to the nearest whole number).

⁷ Calculated as follows: 103 BDCs subject to the requirement \times 1.5 hours = 155 hours (rounded for convenience).

⁸ Calculated as follows: 807 (103 BDCs + 704 registered closed-end funds) funds subject to the requirement \times 2 hours = 1,614 hours.

⁹ *See, e.g.*, Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts, Investment Company Act Release No. 33286 (Oct. 30, 2018) [83 FR 61730 (Nov. 30, 2018)].

these amendments to Form N-2 would increase the aggregate annual burden of Form N-2 by an additional 2,173 hours.¹⁰

We also estimated the paperwork burdens of the amendments that we anticipate would decrease the burdens of Form N-2. The proposal to permit the use of forward incorporation by reference would reduce the need for eligible affected funds to file a post-effective amendment to update the registration statement. This would result in the filing of fewer post-effective amendments than under the current regulatory regime. Based on the staff's examination of Form N-2 filings during the three-year period from January 1, 2016 through December 31, 2018, we estimate that approximately 544 (or 60%) of the 906 post-effective amendments filed during this period were made to update information in the registration statement under the Securities Act.¹¹ We estimate that 62% of affected funds (501 out of 807) would be eligible to use forward incorporation by reference under the proposed amendments. Consequently, we assumed that based on the number of affected funds that would be eligible to forward incorporate under the proposed amendments, the number of post-effective amendments filed annually to update the registration statement under the Securities Act would be reduced by 62% or approximately 112 filings annually.¹² We thus estimate that the proposal to amend Form

¹⁰ Calculated as follows: 404 hours + 155 hours + 1,614 hours = 2,173 hours.

¹¹ Calculated as follows: (290 post-effective amendments in 2016 + 320 post-effective amendments in 2017 + 296 post-effective amendments in 2018) = 906 post-effective amendments x 60% = approximately 544 post-effective amendments.

¹² Calculated as follows: (544 post-effective amendments to update information in the registration statement under the Securities Act) ÷ 3 years = approximately 181 post-effective amendments per year x 62% = approximately 112 post-effective amendments per year. The proposed amendments are expected to reduce the current estimate of 302 post-effective amendments filed annually as follows: 302 – 112 = 190 post-effective amendments.

N-2 to provide forward incorporation by reference would decrease the aggregate annual burdens associated with Form N-2 by 14,000 hours.¹³

For purposes of the PRA, we estimate that cumulatively, the proposed amendments to Form N-2 would result in an overall net reduction of the annual paperwork burden by approximately 11,827 hours of internal personnel time.¹⁴

TABLE 1: BURDEN ESTIMATES FOR INITIAL FORM N-2 FILINGS

	Internal Burden Per Response		Hourly Wage Rate	Annual Internal Cost Burden	Annual External Cost Burden
CURRENTLY APPROVED ESTIMATES¹⁵					
Current Form N-2 requirements	517.6 hours	X	\$269 ¹⁶ (blended rate of \$365 for compliance attorneys and \$172 for intermediate accountants)	\$139,234	\$32,241 ¹⁷
Number of annual responses	× 136			× 136	× 136
TOTAL ANNUAL BURDEN	70,394 hours			\$18,935,824	\$4,384,776
REVISED ESTIMATES					
Current Form N-2 requirements	517.6 hours	×	\$269 (blended rate of \$365 for compliance attorneys and \$172 for intermediate accountants)	\$139,234	\$32,241
Number of annual responses	× 138 ¹⁸			× 138	× 138
Annual burden	71,429 hours			\$19,214,292	\$4,449,258
+ new check boxes, undertakings, BDC FIFIs, online posting requirement	2,173 hours¹⁹	×	\$269	\$584,537	0
TOTAL ANNUAL BURDEN	73,602 hours			\$19,798,829	\$4,449,258

¹³ Calculated as follows: 112 post-effective amendments x 125 hours = 14,000 hours. This calculation differs from the Proposing Release, which estimated 107 hours to prepare and file each post-effective amendment based on the (then) most currently approved PRA submission. *See supra* footnote 1, at nn. 437, 448 and accompanying text, Our calculation here is based on the most recently-approved PRA submission, which estimates 125 hours per post-effective filing due to additional burdens associated with recent amendments to Form N-2. *See supra* footnote 2.

¹⁴ Calculated as follows: estimate of increased aggregate annual burden hours (+2,173 hours, *see supra* footnote 10) plus estimate of decreased aggregate annual burden hours (-14,000 hours, *see supra* footnote 13) = net *decrease* of 11,827 hours.

TABLE 2: BURDEN ESTIMATES FOR POST-EFFECTIVE AMENDMENTS

	Internal Burden Per Response		Hourly Wage Rate	Annual Internal Cost Burden	Annual External Cost Burden
CURRENTLY APPROVED ESTIMATES²⁰					
Current Form N-2 requirements	125 hours	×	\$269 (blended rate for attorneys and intermediate accountants)	\$33,625	\$11,114
Number of annual responses	×	30		×	30
TOTAL ANNUAL BURDEN	3,751 hours			\$1,008,750	\$333,420
REVISED ESTIMATES					
Current Form N-2 requirements	125 hours	×	\$269 (blended rate for compliance attorneys and intermediate accountants)	\$33,625	\$11,114
Number of annual responses (reflects reduction in post-effs filed due to forward inc. by reference)	×	190 ²¹		×	190
TOTAL ANNUAL BURDEN	23,750 hours			\$6,388,750	\$2,111,660

¹⁵ These baseline figures are derived from the most recently approved PRA submission. *See supra* footnote 2. These estimates are higher than those presented in the Proposing Release, *see supra* footnote 1, at nn. 436-437 and accompanying text, which were based on the (then) most currently approved PRA submission.

¹⁶ The Commission’s estimates concerning the allocation of burden hours and the relevant wage rates are based on consultations with industry representatives and 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 1800-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.*

¹⁷ This estimate includes the cost of outside counsel, independent auditors and the services of other professionals retained to assist in the preparation and filing of the form. The currently approved PRA estimates assume a fixed external cost burden for each filing: (1) initial registration statements (\$32,241 per filing); and (2) post-effective amendments (\$11,114 per filing). Changes in external burdens correspond to changes in the number estimated responses. For purposes of this PRA, we continue to estimate the same external cost per response.

¹⁸ *See supra* footnote 4 and accompanying text.

¹⁹ *See supra* footnote 10. While the proposed requirements associated with new check boxes, undertakings, BDC financial highlights, and on-line posting of incorporated documents would apply to initial and post-amendment filings, for convenience, we are associating these corresponding burden hours with initial Form N-2 filings.

²⁰ *See supra* footnote

²¹ *See supra* footnote 12 and accompanying text. Once eligible funds can file short-form registration statements on Form N-2 and forward incorporate by reference information from their Exchange Act reports into their registration statements, the revised estimate of 302 post-effective amendments filed annually is expected to be reduced by 112, resulting in an estimated 190 post-effective amendments filed annually). *See also supra* footnote 4.

TABLE 3: TOTAL BURDEN ESTIMATES FOR FORM N-2

	Internal Burden	Annual Internal Cost Burden	Annual External Cost Burden
CURRENTLY APPROVED ESTIMATES			
Initial Form N-2 filings	70,394 hours	\$18,935,824	\$4,384,776
Post-effective amendments	3,751 hours	\$1,008,750	\$333,420
Total annual burden	74,145 hours	\$19,944,574	\$4,718,196
REVISED ESTIMATES			
Initial Form N-2 filings	73,602 hours	\$19,798,829	\$4,449,258
Post-effective amendments	23,750 hours	\$6,388,750	\$2,111,660
Total annual burden	97,352 hours	\$26,187,579	\$6,560,918

TABLE 4: CHANGE IN FORM N-2 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-2	166 (136 initial filings + 30 post-effective amendments)	328 (138 initial filings + 190 post-effective amendments)	+162	74,145	97,352	+23,207	\$4,718,196	\$6,560,918	+\$1,842,722

Table 4 above reflects a collective increase of 23,207 internal burden hours associated with the increase in number of annual responses and incremental costs to comply with the proposed amendments to Form N-2.²²

²² While the proposed amendments to Form N-2 are expected to reduce the associated annual paperwork burdens, *see supra* footnote 14 and accompanying text, overall burdens and costs increased in line with the increase in estimated post-effective amendments filed annually. *See supra* footnote 4.

14. Cost to the Federal Government

The annual cost of reviewing and processing new registration statements, post-effective amendments, proxy statements, and shareholder reports 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. Change in Burden

The new total annual hour burden of 97,352 hours represents an increase of 23,207 hours over the previous burden hour estimate of 74,145 hours. In addition, the new total annual external cost burden of \$6,560,918 represents an increase of \$1,842,722 over the previous external cost burden of \$4,718,196. The increase in burden hours and external costs are primarily attributable to the increase in the estimated number of Form N-2 post-effective amendments filed annually (largely due to a change in methodology for estimating such filings). The increases were offset in part by the proposed amendments, which would permit eligible affected funds to forward incorporate information from their Exchange Act reports, thus reducing the need for such funds to file a post-effective amendment or a prospectus supplement to update information in the registration statement.

16. Information Collection Planned for Statistical Purposes

Not Applicable.

17. Approval to Omit OMB Expiration Date

Not Applicable.

18. Exceptions to Certification Statement for Paperwork Reduction Act Submission

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not Applicable.