

**SUPPORTING STATEMENT FOR THE PAPERWORK REDUCTION ACT  
INFORMATION COLLECTION SUBMISSION FOR FINAL AMENDMENTS TO  
RULES 147(f)(1)(iii)**

**A. JUSTIFICATION**

**1. CIRCUMSTANCES MAKING THE COLLECTION OF INFORMATION NECESSARY**

Rule 147 contains “collection of information” requirements within the meaning of the PRA. Specifically, Rules 147(f)(1)(iii) contains a provision requiring issuers relying on the rule to “obtain a written representation from each purchaser as to his or her residence

Rule 147(f)(1)(iii) will require the issuer to obtain from the purchaser a written representation as to the purchaser’s residency. The representation is not required to be presented in any particular format, although it must be in writing. Representations obtained by the issuer are not required to be kept confidential, and there is no mandatory retention period.

**2. PURPOSE AND USE OF THE INFORMATION COLLECTION**

In order to qualify for the exemptions under Rule 147, the purchaser in the offering must be a resident of the same state or territory in which the issuer is resident. Under the rule, an issuer will satisfy this requirement by either the existence of the fact that the purchaser is a resident of the applicable state or territory, or by establishing that the issuer has a reasonable belief that the purchaser of the securities in the offering is a resident of such state or territory.

In addition, issuers will be required to obtain a written representation from each purchaser as to his or her residence. While the formal representation of residency by itself is not sufficient to establish a reasonable belief that such purchasers are in-state residents, the representation requirement, together with the reasonable belief standard, may result in better compliance with the final rules.

**3. CONSIDERATION GIVEN TO INFORMATION TECHNOLOGY**

The collection of information requirements will not be provided to the Commission, either electronically or otherwise.

**4. DUPLICATION OF INFORMATION**

We are not aware of any rules that conflict with or substantially duplicate Rule 147(f)(1)(iii).

**5. REDUCING THE BURDEN ON SMALL ENTITIES**

Rule 147(f)(1)(iii) is designed to streamline and modernize the intrastate offering exemption for all issuers, both large and small. The written representation requirement contained

in Rule 147(f)(1)(iii) will apply to all issuers, including small entities. While the Commission does not collect data on the number and size of Rule 147 offerings or the type of issuers currently relying on the Rule 147 safe harbor, the nature of the eligibility requirements and other restrictions of the rule lead us to believe that the adopted rules will be used by U.S. incorporated entities that are likely small businesses seeking to raise small amounts of capital locally without incurring the costs of registering with the Commission.

In connection with amended Rule 147, we do not think it feasible or appropriate to establish different compliance or reporting requirements or timetables for small entities. The rule is designed to facilitate access to capital for both large and small issuers, but particularly smaller issuers who may satisfy their financing needs by limiting the sales of their securities only to residents of the state or territory in which the issuers are resident. The written representation requirement contained in Rule 147(f)(1)(iii) is designed with the limited resources of smaller issuers in mind.

## **6. CONSEQUENCES OF NOT CONDUCTING COLLECTION**

The purpose of the written representation requirement contained in Rule 147(f)(1)(iii) is to require all issuers conducting these intrastate offerings to obtain a consistent piece of evidence of each purchaser's residency. Obtaining a written representation from a purchaser of in-state residency status will not, without more, be sufficient to establish a reasonable belief that such purchaser is an in-state resident.

In addition to the written representation, other facts and circumstances could include, but will not be limited to, for example, a pre-existing relationship between the issuer and the prospective purchaser that provides the issuer with sufficient knowledge about the prospective purchaser's principal residence or principal place of business so as to enable the issuer to have a reasonable basis to believe that the prospective purchaser is an in-state resident. An issuer may also consider other facts and circumstances when establishing the residency of a prospective purchaser, such as evidence of the home address of the prospective purchaser, as documented by a recently dated utility bill, pay-stub, information contained in state or federal tax returns, any documentation issued by a federal, state, or local government authority, such as a driver's license or identification card, or a public or private database that the issuer has determined is reasonably reliable, including credit bureau databases, directory listings, and public records.

## **7. SPECIAL CIRCUMSTANCES**

There are no special circumstances with this information collection.

## **8. CONSULTATIONS WITH PERSONS OUTSIDE THE AGENCY**

No comments were received during the 60-day comment period prior to OMB's review of this submission.

## **9. PAYMENT OR GIFT TO RESPONDENTS**

No payment or gift to respondents.

## **10. CONFIDENTIALITY**

Rule 147(f)(1)(iii) is not filed with the Commission.

## **11. SENSITIVE QUESTIONS**

No information of a sensitive nature is required under this collection of information. The information collection for the written representation requirement contained in Rule 147(f)(1)(iii) collects basic Personally Identifiable Information (PII) that may include name, business address, and residential address.

## **12. ESTIMATE OF RESPONDENTS REPORTING BURDEN**

We estimate that 700 respondents (i.e., issuers) will conduct offerings under Rule 147 each year, and therefore must comply with Rule 147(f)(1)(iii) by obtaining written representations from each purchaser in the offering as to his or her residence. We estimate that it takes approximately 0.25 hours (15 minutes) for issuers to obtain written representations from all purchasers in each offering as to their residence for an aggregate annual burden of 175 issuer burden hours for compliance with the requirement in Rule 147(f)(1)(iii). We derived our burden hour estimates by estimating the average number of hours it would take an issuer to compile the necessary information and data, prepare and review disclosure, file documents and retain records. In connection with rule amendments to the rule, we occasionally receive PRA estimates from public commenters about incremental burdens that are used in our burden estimates. We recognize that the burden will likely vary among issuers based on the size of their offerings and the number of purchasers acquiring securities in their offerings and between natural person and legal entity purchasers. We believe that some will experience burdens and costs in excess of these estimated averages and others may experience less than these estimated average burdens and costs. For administrative convenience, the total burden hours have been rounded to the nearest whole number. The estimated burden hours are made solely for the purpose of the Paperwork Reduction Act.

Similarly, we anticipate that the written representation required by purchasers, including the obligation to determine the state or territory of their residence, as required under Rule 147(f)(1)(iii), will result in a burden incurred by purchasers in order to purchase securities in an exempt intrastate offering pursuant to Rule 147(f)(1)(iii). For purposes of the PRA, we estimate that the total annual paperwork burden for all affected purchasers arising from these collections of information requirements will be approximately 1,750 hours of purchaser time and no cost incurred for the services of outside professionals. Specifically, we estimate each purchaser will spend an average of approximately fifteen minutes preparing a written statement of residency to provide to the issuer and will incur no cost for the services of outside professionals to satisfy this requirement, resulting in an aggregate of 2.5 hours of purchaser time per offering and an aggregate annual burden of 1,750 purchaser hours (an average of 2.5 hours for each of the estimated 700 offerings per year pursuant to Rule 147) for compliance with the requirement in Rule 147(f)(1)(iii).

### **13. ESTIMATE OF TOTAL ANNUALIZED COST BURDEN**

We estimate each of the approximately 700 issuers will retain outside professional firms to spend an average of fifteen minutes helping the issuer comply with the requirement in Rule 147(f)(1)(iii) to obtain and collect the written statement of residency from each purchaser in the offering at an average cost of \$400 per hour, resulting in a cost of \$100 per issuer and an aggregate annual cost of \$70,000 for all issuers to comply with this requirement of Rule 147. In addition, we estimate that there is no cost to the purchaser to provide the issuer with a written statement of residency. We estimate an hourly cost of \$400 for outside legal and accounting services used in connection with public company reporting. This estimate is based on our consultations with registrants and professional firms who regularly assist registrants in preparing and filing disclosure documents with the Commission. Our estimates reflect average burdens, and therefore, some companies may experience costs in excess of our estimates and some companies may experience costs that are lower than our estimates. For administrative convenience, the presentation of the totals related to the paperwork burden hours have been rounded to the nearest whole number and the cost totals have been rounded to the nearest dollar. The cost estimate is made solely for the purpose of the Paperwork Reduction Act.

### **14. COSTS TO FEDERAL GOVERNMENT**

The annual cost of reviewing and processing disclosure documents, including registration statements, post-effective amendments, proxy statements, annual reports and other filings of operating companies amounted to \$102 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. REASON FOR CHANGE IN BURDEN**

There is no change in burden.

### **16. INFORMATION COLLECTION PLANNED FOR STATISTICAL PURPOSES**

The information collection is not planned for statistical purposes.

### **17. APPROVAL TO OMIT OMB EXPIRATION DATE**

The Commission is not seeking approval to omit the expiration date for OMB approval.

### **18. EXCEPTIONS TO CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS**

There are no exceptions to certification for Paperwork Reduction Act submissions.

## **B. STATISTICAL METHODS**

The information collection does not employ statistical methods.