

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Form S-6

A. JUSTIFICATION

1. Necessity for the Information Collection

Form S-6¹ is a form used for registration under the Securities Act of 1933 (“Securities Act”)² of securities of any unit investment trust (“UIT”) registered under the Investment Company Act of 1940 (“Investment Company Act”)³ on Form N-8B-2.⁴ Section 5 of the Securities Act 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.⁵ 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.

Section 10(a)(3) of the Securities Act provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use.⁶ As a result, most UITs update their registration statements under the Securities Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units. UITs that are registered under the Investment Company Act on Form N-8B-2 file post-effective amendments to their registration statements on Form S-6 in order to update their prospectuses.

On September 25, 2019, the Commission issued a release adopting a new rule that will permit exchange-traded funds (“ETFs”) that satisfy certain conditions to operate without the expense and delay of obtaining an exemptive order.⁷ The release also includes certain disclosure amendments to Form S-6 to provide investors who purchase and sell ETF shares

¹ 17 CFR 239.16.

² 15 U.S.C. 77a *et seq.*

³ 15 U.S.C. 80a-1 *et seq.*

⁴ 17 CFR 274.12. Form N-8B-2 is the form used by UITs other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor to register under the Investment Company Act pursuant to Section 8 thereof.

⁵ 15 U.S.C. 77e.

⁶ 15 U.S.C. 77j(a)(3).

⁷ Exchange-Traded Funds, Investment Company Act Release No. 33646 (Sept. 25, 2019) [84 FR 57162 (Oct. 24, 2019)].

on the secondary market with additional information regarding ETF trading and associated costs, regardless of whether such ETFs are structured as registered open-end management investment companies or UITs.

2. Purpose and Use of the Information Collection

The purpose of Form S-6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information necessary to evaluate an investment in the security. 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 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 (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. Form S-6 is required to be filed with the Commission electronically on EDGAR.⁸ Prospectuses may be sent to investors by electronic means so long as certain requirements are met.⁹

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 S-6 requires a prospectus that includes much of the information requested in Form N-8B-2. Form N-8B-2, however, is filed only once to register the UIT under the Investment Company Act.¹⁰

⁸ See rule 101(a)(1)(i) of Regulation S-T [17 CFR 232.101(a)(1)(i)].

⁹ See Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)].

¹⁰ To eliminate the duplicative information presented in the registration forms used by UITs, the Commission has proposed and repropounded, but has not yet adopted, Form N-7, an integrated disclosure form under the Securities Act and the Investment Company Act. See Investment Company Act Release No. 14513 (May 14, 1985) [50 FR 21282 (May 23, 1985)]; Investment Company Act Release No. 15612 (Mar. 9, 1987) [52 FR 8268 (March 17, 1987)].

Duplication has been lessened for insurance company separate accounts organized as UITs that offer variable annuity or variable life insurance contracts, because each such entity registers offerings of securities under the Securities Act and registers as an investment company under the Investment Company Act using a single form, Form N-4 (for insurance company separate

5. Effect on Small Entities

The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act,¹¹ to identify methods to minimize recordkeeping or reporting requirements affecting small businesses. The current disclosure requirements for registration statements on Form S-6 do not distinguish between small entities and other investment companies. The burden on smaller investment companies of preparing and filing registration statements may be proportionately greater than for larger investment companies. This burden includes the cost of producing, printing, filing, and disseminating prospectuses. 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.

6. Consequences of Not Conducting Collection

The purpose of Form S-6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information necessary to evaluate an investment in the security. Less frequent filing would be inconsistent with the filing and disclosure requirements of the Securities Act. In addition, if the form were to be filed less frequently, investors may not be provided with the information necessary to evaluate an investment in the security.

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

This collection is not inconsistent with 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency

Before adopting the amendments affecting Form S-6, the Commission solicited and evaluated public comments on the proposal's collection of information requirements. The Commission did not receive public comment on its proposed estimates, but the Commission revised its estimates as a result of updated industry data and modifications from the proposal. 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 staff with a means of ascertaining and acting upon paperwork burdens confronting the industry.

accounts organized as UITs that offer variable annuity contracts) or Form N-6 (for insurance company separate accounts organized as UITs that offer variable life insurance contracts).

¹¹ 5 U.S.C. 601 *et seq.*

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 1995¹² and are not derived from a comprehensive or even representative, survey or study of the cost of Commission rules and forms. Compliance with Form S-6 is mandatory. Responses to the collection of information will not be kept confidential.

Form N-8B-2 is used by UITs to initially register under the Investment Company Act pursuant to section 8 thereof. UITs are required to file Form S-6 in order to register offerings of securities with the Commission under the Securities Act. As a result, UITs file Form N-8B-2 only once when the UIT is initially created and then use Form S-6 to file all post-effective amendments to their registration statements in order to update their prospectuses. We currently estimate for Form S-6 a total burden of 107,245 hours, with an internal cost burden of approximately \$34,163,955, and an external cost burden estimate of \$68,108,956.¹³

To assist investors with better understanding the total costs of investing in a UIT ETF, the Commission adopted disclosure requirements in Form N-8B-2 designed to provide investors who purchase ETF shares in secondary market transactions with tailored

¹² 44 U.S.C. 3501 *et seq.*

¹³ This estimate is based on the last time the form’s information collection was submitted for PRA revision in 2019.

information regarding ETFs, including information regarding purchasing and selling shares of ETFs. All UIT ETFs will be subject to these disclosure requirements. For existing UIT ETFs, the one-time and ongoing costs of complying with the amendments to Form N-8B-2 will accrue on Form S-6.

TABLE 1: FORM S-6 PRA ESTIMATES

	Initial hours	Annual hours ¹		Wage rate ²	Internal time costs	Annual external cost burden
Draft and finalize disclosure and amend Form S-6	12 hours	4 hours	×	\$365 (compliance attorney)	\$1,460	
	12 hours	4 hours	×	\$331 (senior programmer)	\$1,324	
Review and update disclosures on Form S-6		5 hours	×	\$365 (compliance attorney)	\$1,825	
		5 hours	×	\$331 (senior programmer)	\$1,655	
Total new annual burden per ETF	24 hours	18 hours			\$6,264	
Number of UIT ETFs		× 8			× 8	
Total new annual burden		114 hours			\$50,112	\$ 0
Current burden estimates		+ 107,245 hours				+ \$68,108,956
Revised burden estimates		107,359 hours				\$68,108,956

Notes:

1. Includes initial burden estimates annualized over a three-year period.
2. The Commission's estimates of the relevant wage rates 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 figures are modified by 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.

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 S-6	2,498	2,498	0	107,245	107,359	+ 114	\$68,108,956	\$68,108,956	0

Table 1 above summarizes the PRA estimates associated with Form S-6. We estimate that the total hour burdens and time costs associated with the amendments affecting Form N-8B-2 will result in an average aggregate annual burden of 114 hours at an average aggregate time cost of \$50,112. Therefore, the revised aggregate estimate for Form N-8B-2, including the new amendments, is 107,359 hours.

13. Cost to Respondents

Cost burden is the cost of goods and services purchased to prepare and update registration statements on Form S-6, such as for the services of independent auditors and outside counsel. The cost burden does not include the hour burden discussed in Item 12 above. Current estimates are based on the Commission's experience with the filing of registration forms.

As summarized in Table 1 above, in our most recent Paperwork Reduction Act submission for Form S-6, Commission staff estimated about \$68.1 million in external cost burden per year. We estimate that the revised external burden will be \$68.1 million. The Commission does not estimate any change in external cost. Therefore, the revised aggregate estimate for Form S-6, including the new amendments, is about \$68.1 million 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 S-6 has increased from 107,345 hours to 107,359 hours (an increase of 114 hours). The change in burden hours is due to the estimates of the time burden that will result from our amendments affecting Form S-6. The Commission does not estimate any change in cost burden.

16. Information Collection Planned for Statistical Purposes

The results of any information collected will not be published.

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. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of information will not employ statistical methods.