

**SUPPORTING STATEMENT**  
**For the Paperwork Reduction Act Information Collection Submission for**  
**Form 2-E, Report pursuant to rule 609 of Regulation E**

**A. JUSTIFICATION**

**1. Necessity for the Information Collection**

Section 3(c) of the Securities Act of 1933 (“Securities Act”) permits the Securities and Exchange Commission (the “Commission”) to exempt completely or conditionally securities issued by small business investment companies (“SBICs”) from the provisions of the Securities Act.<sup>1</sup> Regulation E under the Securities Act<sup>2</sup> provides specific exemptions from the registration provisions of the Securities Act for SBICs and business development companies (“BDCs”). Under Regulation E, securities issued by SBICs that are registered under the Investment Company Act of 1940 (“Investment Company Act”)<sup>3</sup> and securities issued by certain investment companies that elect to be treated as BDCs under the Investment Company Act are exempt from registration under the Securities Act, provided that certain conditions are met.

Rule 609 under the Securities Act<sup>4</sup> requires SBICs and BDCs that have engaged in offerings of securities that are exempt from registration pursuant to Regulation E to report semi-annually on Form 2-E<sup>5</sup> the progress of the offering. The form solicits information such as the dates an offering commenced and was completed (if completed), the number of

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<sup>1</sup> 15 U.S.C. 77c(c).

<sup>2</sup> 17 CFR 230.601 to 610a.

<sup>3</sup> 15 U.S.C. 80a-1 et seq.

<sup>4</sup> 17 CFR 230.609.

<sup>5</sup> 17 CFR 239.201.

shares sold and still being offered, amounts received in the offering, and expenses and underwriting discounts incurred in the offering. Upon completion of the offering and the filing of a final report, no further reports are required under this regulation.

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

The information provided on Form 2-E assists the staff in monitoring the progress of the offering and in determining whether the offering has stayed within the limits set for an offering exempt under Regulation E.

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

The Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") automates the filing, processing, and dissemination of full disclosure filings. The system permits publicly held companies to transmit their filings to the Commission electronically. This automation provides for speed, accuracy, and availability of information, generating benefits to investors and financial markets. Form 2-E is required to be filed electronically on EDGAR.<sup>6</sup> The public may access filings on EDGAR through the Commission's website (<http://www.sec.gov>).

## **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. The information required by Form 2-E is not generally duplicated elsewhere.

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

The Commission reviews all rules periodically, as required by the Regulatory

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<sup>6</sup> See rule 101(a)(1)(v) of Regulation S-T (17 CFR 232.101(a)(1)(v)).

Flexibility Act, to identify methods to minimize recordkeeping or reporting requirements affecting small businesses.<sup>7</sup> Congress enacted the Small Business Investment Act of 1958<sup>8</sup> in order to stimulate and supplement the flow of capital to small businesses. A primary purpose of the small offering exemption under Regulation E is to provide a simple and relatively inexpensive procedure by which small businesses can raise limited amounts of needed capital.

Offerings under Regulation E require less extensive disclosure than Securities Act registrations. Generally, the less burdensome provisions under Regulation E reflect a commitment by the Commission to facilitate capital formation by SBICs and BDCs while maintaining a level of investor protection traditionally afforded smaller offerings.

**6. Consequences of Not Conducting Collection**

Reports on Form 2-E must be filed semi-annually during an offering and as a final report at the completion of the offering. Less frequent filing would not allow the Commission to monitor the progress of the offering to ensure that the issuer was not attempting to avoid the normal registration provisions of the securities laws.

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

None.

**8. Consultation Outside the Agency**

The Commission and staff of the Division of Investment Management participate in an ongoing dialogue with representatives of the SBIC and BDC industry through public conferences, meetings, and informal exchanges. These various forums provide the

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<sup>7</sup> 5 U.S.C. 601 et seq.

<sup>8</sup> 15 U.S.C. 661 et seq.

Commission and the staff with a means of ascertaining and acting upon paperwork burdens that may confront the industry. The Commission requested public comment on the collection of information requirements in Form 2-E before it submitted this request for extension and approval to the Office of Management and Budget. The Commission received no comments in response to its request.

**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 1/29/2016, 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 1995<sup>9</sup> and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. Compliance with Form 2-E is mandatory to qualify for the exemption. Responses to the disclosure requirements will not be kept confidential.

The estimated burden of information collection for Form 2-E remains unchanged from our prior estimates; that estimated burden is set forth in Table 1 below.

**Table 1: Form 2-E PRA Estimates**

	Estimated Annual No. of Responses			Estimated Annual Time Burden (Hrs.)			Estimated External Cost to Respondents (\$)		
	<i>Previously approved</i>	<i>Requested</i>	<i>Change</i>	<i>Previously approved</i>	<i>Requested</i>	<i>Change</i>	<i>Previously approved</i>	<i>Requested</i>	<i>Change</i>
Form 2-E	1 <sup>1</sup>	1	0	4	4	0	\$0	\$0	\$0

<sup>1</sup> One respondent submitted a Form 2-E filing in 2017; there has not be a Form 2-E filing since that filing in calendar year 2017.

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

We estimate that there are no external cost burdens imposed by the information collection for Form 2-E.

### **14. Cost to the Federal Government**

The annual cost of reviewing and processing disclosure documents, including new registration statements, post-effective amendments, proxy statements, and shareholder reports of investment companies amounted to approximately \$21.2 million in fiscal year 2019, based on the Commission’s computation of the value of staff time devoted to this activity and related overhead.

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<sup>9</sup> 44 U.S.C. 3501 et seq.

**15. Change in Burden**

There is no change to the estimated annual time burden and external cost burden from the existing approved burden estimates for this information collection. The Commission continues to estimate that this information collection imposes a four hour time burden for administrative purposes and a zero external 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**

The Commission is not seeking approval to omit the expiration.

**18. Exceptions to Certification Statement for Paperwork Reduction Act**

**Submissions**

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.