

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

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).

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 February 9, 2022, the Commission proposed rules related to cybersecurity risk management for registered investment advisers, registered investment companies, and business development companies as well as amendments to certain rules that govern investment adviser and fund disclosures under the Investment Advisers Act of 1940 and the Investment Company Act.⁷ The Commission proposed several amendments to Form S-6 to require a description of any significant fund cybersecurity incident that has occurred in its last two fiscal years, using a structured data language.⁸ These amendments are designed to enhance investor protection by ensuring cybersecurity incident-related information is available to increase understanding and insight into a fund's cybersecurity history.

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

⁷ Cybersecurity Risk Governance and Incident Disclosure, Securities Act Release No. 11028 (Feb. 9, 2022) available at <https://www.sec.gov/rules/proposed/2022/33-11028.pdf> (“Cybersecurity Risk Governance and Incident Disclosure Proposal”).

⁸ Although the interactive data filing requirements are included in the instructions to Form S-6, we are separately reflecting the hour and cost burdens for these requirements in the burden estimate for Investment Company Interactive Data (OMB control number 3235-0642) and not in this estimate.

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. The amendments will facilitate access to exhibits by investors and other users of the information.

3. Role of Improved Information Technology

The Commission's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system automates the 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.⁹ The public may access filings on EDGAR through the Commission's website (<http://www.sec.gov>) or at EDGAR terminals located at the Commission's public reference rooms. Prospectuses may be sent to investors by electronic means so long as the fund meets certain requirements.¹⁰

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

⁹ 17 CFR 232.101(a)(1)(i) and (iv).

¹⁰ See Use of Electronic Media for Delivery Purposes, Securities Act Release No. 7233, Exchange Act Release No. 36345, Investment Company Act Release No. 21399 (Oct. 6, 1995) (60 FR 53458 (Oct. 13, 1995)).

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.¹¹

5. Effect on Small Entities

The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act,¹² to identify methods to minimize recordkeeping or reporting requirements affecting small businesses. The proposed 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

¹¹ To eliminate the duplicative information presented in the registration forms used by UITs, the Commission has proposed and repropoed, 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 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).

¹² 5 U.S.C. 601 *et seq.*

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. Consultation Outside the Agency

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. In addition, the Commission has requested public comment on the proposed amendments to Form S-6, including the collection of information requirements resulting from the proposed amendments. Before adopting these amendments, the Commission will receive and evaluate public comments on the proposed amendments and their associated 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 February 5, 2020, is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>.

12. Estimate of Hour and Cost Burden of Information Collection

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act of 1995¹³ and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. In our most recent Paperwork Reduction Act submission for Form S-6, we estimated a total aggregate annual hour burden of 107,359 hours, and a total annual aggregate annual external cost burden of \$68,108,956.¹⁴ Compliance with the disclosure requirements of Form S-6 is mandatory, and the responses to the disclosure requirements will not be kept confidential. The table below summarizes

¹³ 44 U.S.C. 3501 *et seq.*

¹⁴ On July 30, 2020, the Office of Management and Budget approved without change a revision of the currently approved information collection estimate for Form S-6.

our PRA annual burden estimates associated with the proposed amendments to Form S-6.

Table 1: Burden Estimates for Initial and Ongoing Registration Statements Filed on Form S-6

	Internal initial burden hours	Internal annual burden hours ¹	Wage rate ²	Internal time costs	Annual external cost burden
PROPOSED FORM S-6 ESTIMATES					
Cybersecurity incident disclosures ³	21 hours	15 hours ⁴	\$356 (blended rate for compliance attorney and senior programmer)	\$5,340	\$992 ⁵
Number of filings		× 1,047 filings		× 1,047 filings	× 524 ⁶
Total new aggregate annual burden		15,705 hours		\$5,590,980	\$519,312
TOTAL ESTIMATED BURDENS INCLUDING AMENDMENTS					
Current aggregate annual burden estimates		+ 107,359 hours			+ \$68,108,956
Revised aggregate annual burden estimates		123,064 hours			\$68,628,268

Notes:

1. Includes initial burden estimates annualized over a 3-year period.
2. The Commission's estimates of the relevant wage rates are based on the SIFMA Wage Report. The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation.
3. This estimate represents the average burden for a filer. Filers that experience one or several fund cybersecurity incidents are expected to incur higher burdens.
4. Includes initial burden estimates annualized over a three-year period, plus 8 ongoing annual burden hours. The estimate of 15 hours is based on the following calculation: ((21 initial hours / 3) + 8 additional ongoing burden hours) = 15 hours.
5. This estimated burden is based on the estimated wage rate of \$496/hour, for 2 hours, for outside legal services. The Commission's estimates of the relevant wage rates for external time costs, such as outside legal services, take into account staff experience, a variety of sources including general information websites, and adjustments for inflation.
6. We estimate that 50% of filers will use outside legal services for these collections of information. This estimate takes into account that funds may elect to use outside legal services (along with in-house counsel), based on factors such as fund budget and the fund's standard practices for using outside legal services, as well as personnel availability and expertise.

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. 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 \$68,108,956 in external cost burden per year. We estimate that the annual cost of outside services associated with these proposed amendments to Form S-6 is approximately \$992 per fund and the total annual external cost burden for the Form S-6 proposed amendments is \$519,312.¹⁵

14. Cost to the 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 \$25.7 million in fiscal year 2020, based on the Commission’s computation of the value of staff time devoted to this activity and related overhead.

15. Change in Burden

The estimated hourly burden and external cost associated with Form S-6 has increased as follows:

Table 2: Comparison of Current and Revised Burden Hours and External Cost for Registration Statements Filed on Form S-6

	Annual Time Burden (hours)			External Cost Burden (dollars)		
	Currently Approved	Revised Estimate	Change	Currently Approved	Revised Estimate	Change
Form S-6	107,359	123,064	15,705	\$68,108,956	\$68,628,268	\$519,312

¹⁵ This estimate is based on the following calculation: 524 funds x \$992 per filing = \$519,312.

The changes in annual burden hours and external cost burden are due to our proposed amendments affecting Form S-6 requiring a description of any significant fund cybersecurity incident that has occurred in the fund's last two fiscal years.

16. Information Collection Planned for Statistical Purposes

The results of any information collection will not be published.

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 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.