

SUPPORTING STATEMENT FOR PROPOSED RULES RELATING TO SHARE REPURCHASE DISCLOSURE MODERNIZATION

This supporting statement is part of a submission under the Paperwork Reduction Act of 1995, 44 U.S.C. §3501, *et seq.*

A. JUSTIFICATION

1. CIRCUMSTANCES MAKING THE COLLECTION OF INFORMATION NECESSARY

In Release No. 34-93783,¹ the Commission proposed amendments to modernize and improve the disclosure requirements for purchases of equity securities made by or on behalf of an issuer or any affiliated purchaser. Issuers may repurchase their shares through, among other means, open market purchases, tender offers, private negotiated transactions, and accelerated share repurchases. Investors and other market participants normally do not become aware of an issuer's actual share repurchase-related trading activity until they are reported in an issuer's periodic reports, long after the trades have been executed.

The proposed amendments are intended to improve the quality, relevance, and timeliness of information related to issuer share repurchases. The proposed amendments would require an issuer to provide more timely disclosure on a new Form SR regarding purchases of its equity securities for each day that it, or an affiliated purchaser, makes a share repurchase and enhance the existing periodic disclosure requirements about share repurchases. More specifically, the amendments would:

- Require daily repurchase disclosure on a new Form SR, which would be furnished to the Commission one business day after execution of an issuer's share repurchase order;
- Amend Item 703 to require additional detail regarding the structure of an issuer's repurchase program and its share repurchases; and
- Require information disclosed pursuant to Item 703 of Regulation S-K and pursuant to Form SR to be reported using a structured data language (specifically, Inline eXtensible Business Reporting Language or "Inline XBRL")

The proposed amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA"). The titles of the collections of information impacted by the amendments are:²

- "Form 10-K" (OMB Control No. 3235-0063);
- "Form 10-Q" (OMB Control No. 3235-0070);
- "Form 20-F" (OMB Control No. 3235-0288); and

¹ *Share Repurchase Disclosure Modernization*, Release No. 34-93783 (December 15, 2021), a copy of which is attached.

² The Commission's Division of Investment Management will separately submit, pursuant to the Paperwork Reduction Act of 1995, the supporting statement and related attachment for Form N-CSR.

- “Form SR” (a proposed new collection of information).

2. PURPOSE AND USE OF THE INFORMATION COLLECTION

The forms listed above were adopted pursuant to the Securities Exchange Act of 1934 (Exchange Act) and we are proposing the new form pursuant to the Exchange Act. The forms set forth the disclosure requirements for periodic reports filed by issuers. The disclosure requirements are intended to help investors make informed investment and voting decisions.

The purpose of the proposed amendments is to improve the quality, relevance, and timeliness of information related to issuer share repurchases. In particular, because issuers are repurchasing their own securities, asymmetries may exist between issuers and affiliated purchasers and investors with regard to information about the issuer and its future prospects which could exacerbate some of the potential harms associated with issuer repurchases.

3. CONSIDERATION GIVEN TO INFORMATION TECHNOLOGY

The information that would be required by these rules would be filed electronically with the Commission using the Commission’s Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. We are additionally proposing the information be reported using a structured data language (specifically, Inline eXtensible Business Reporting Language (Inline XBRL)) which would make the disclosures more readily available and easily accessible to investors, market participants, and others for aggregation, comparison, filtering, and other analysis.

4. DUPLICATION OF INFORMATION

We believe that the proposed amendments would not duplicate, overlap,³ or conflict with other federal rules. As proposed, Form SR would require daily disclosure of issuer share repurchases. Issuer periodic reports would also continue to provide monthly breakdowns of such repurchase activity. We additionally note that in a separate release relating to Rule 10b5-1, the Commission is proposing certain disclosure requirements for issuers regarding trading plans.⁴ In connection with the potential adoption of these rules, we would plan to coordinate the two releases to avoid any duplication, overlap or conflict between the rules.

³ The proposed amendments include a checkbox for registrants to indicate if any of their officers or directors reporting pursuant to Section 16(a) of the Exchange Act purchased or sold shares or other units of the class of the issuer’s equity securities that is the subject of an issuer share repurchase plan or program within 10 business days before or after the issuer’s announcement of such repurchase plan or program. Investors and other interested parties could conduct their own review of Section 16 reports to identify purchases or sales made by officers or directors within the relevant time period, thereby making the checkbox unnecessary. This, however, could be a burdensome exercise if a high volume of Section 16 reports have been filed. The checkbox is intended to provide a more efficient means of making this information available.

⁴ *Rule 10b5-1 and Insider Trading*, Release No. 33-11013 (Jan. 13, 2022).

5. REDUCING THE BURDEN ON SMALL ENTITIES

The proposed amendments would affect some issuers that are small entities. The proposed amendments are intended to improve disclosure about repurchases of an issuer's equity securities for investors to evaluate those activities and decrease any information asymmetry between issuers and investors. The additional disclosure, which would be provided in a machine-readable format, should permit investors to more quickly and efficiently evaluate information relating to issuer share repurchases. We expect small entities to be less likely to conduct share repurchases, and the amendments would place no burdens on small entities not conducting share repurchases. Also, to the extent that small filers have relatively high information asymmetries because of lower analyst and institutional coverage, the proposed additional disclosure about their repurchases may be relatively more informative to investors. Because small entities are less likely to conduct share repurchases and in the event that they do, are more likely to have relatively high information asymmetries, we do not believe it would be appropriate to provide simplified or consolidated reporting requirements, a delayed compliance timetable, or an exemption for small entities from all or part of these requirements.

6. CONSEQUENCES OF NOT CONDUCTING COLLECTION

The forms listed above set forth filing and disclosure requirements associated with periodic disclosure to help investors make informed investment and voting decisions. Failure to conduct these collections of information would reduce the information available to investors to make these decisions.

7. SPECIAL CIRCUMSTANCES

There are no special circumstances in connection with these amendments.

8. CONSULTATIONS WITH PERSONS OUTSIDE THE AGENCY

The proposed amendments result from an ongoing, comprehensive evaluation of our disclosure requirements. As part of this evaluation, in April 2016, the Commission issued a Concept Release on the business and financial disclosure required by Regulation S-K, including disclosure pursuant to Item 703.⁵ The Commission requested comment on the current disclosure requirements.⁶ In developing the proposed amendments, the staff considered input from comment letters received in response to the Concept Release, as well as input from other commentators and market participants.

9. PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

⁵ See *Business and Financial Disclosure Required by Regulation S-K*, Release No. 33-10064 (Apr. 13, 2016) [81 FR 23915 (Apr. 22, 2016)] (Concept Release).

⁶ Comments on the Concept Release are available at <https://www.sec.gov/comments/s7-06-16/s70616.htm>.

10. CONFIDENTIALITY

Documents submitted to the Commission are available to the public.

11. SENSITIVE QUESTIONS

No information of a sensitive nature will be required under these amendments. These information collections collect basic Personally Identifiable Information (PII) that may include a name and job title. However, the agency has determined that these information collections do 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./13. ESTIMATES OF HOUR AND COST BURDENS

The estimated burden hours and cost burden are made solely for the purposes of the PRA and represent the average burden for all issuers. The cost burden is not derived from a comprehensive or even a representative survey of the costs of Commission rules and forms.

The following table summarizes the estimated paperwork burden associated with proposed new Form SR that affected issuers of equity securities registered under Section 12 of the Exchange Act would use to disclose a repurchase of their equity shares.

Table 1: Estimated Paperwork Burden of Proposed Form SR

Affected Form	Estimated Burden	Brief Explanation of Estimated Burden
New Form SR	A new burden of 1.5 hours for each Form SR.	This burden is the estimated effect of compiling the data elements, tagging the data using Inline XBRL, and preparing and submitting the Form SR.

We estimate a burden of approximately 1.5 hours for each Form SR. The burden includes the effect of compiling the six required data elements for each date that the form is required, tagging the data using Inline XBRL, and preparing and submitting the Form SR. Our proposed 1.5 hour estimate is for the average burden over the first three years of reporting. We acknowledge that preparation of Form SR may initially entail a higher burden as issuers get accustomed to collecting data for, and preparing the new form, but we believe that the burden would be reduced with subsequent filings.

Based on data from Compustat and EDGAR filings for fiscal year 2020, we estimate that approximately 3,400 issuers that conducted share repurchases during fiscal year 2020 would be affected by the proposed new Form SR requirement (among them, approximately 250 foreign

private issuers who reported share repurchases on Form 20-F). We additionally note that most issuers that conduct share repurchases do so over a period of time, rather than by making a single purchase or a few isolated purchases during the year. We conservatively estimate that issuers conducting share repurchases would purchase shares one day a week for the entire year, resulting in 52 Form SR filings per year. Based on the staff’s findings relating to the number of issuers conducting share repurchases and the estimate of the frequency of repurchases, we estimate 176,800 Form SR filings per year.

The following table summarizes the estimated paperwork burdens associated with the proposed amendments to the affected forms filed by issuers of equity securities registered under Section 12 of the Exchange Act.

Table 2: Estimated Paperwork Burden of Proposed Amendments to Periodic Reports

Amendments to Reg. S-K Item 703, Form 20-F, Reg. S-T Rule 405 and Proposed New Exchange Act Rule 13a-21	Estimated Burden Increase	Brief Explanation of Estimated Burden Increase
<ul style="list-style-type: none"> • Require additional disclosure regarding the structure of an issuer’s repurchase program and its share repurchases; • Require new checkbox to indicate if any of the issuer’s officers or directors subject to the reporting requirements under Section 16(a) of the Exchange Act purchased or sold shares or other units of the class of the issuer’s equity securities that is the subject of an issuer share repurchase plan or program within 10 business days before or after the announcement of an issuer purchase plan or program; and • Require information to be reported using a structured data language. 	<p>An increase of 3 burden hours for each of the affected forms: Form 10-K, Form 10-Q, and Form 20-F.</p>	<p>This increase is the estimated effect on the affected forms by the proposed amendments to include additional share repurchase disclosures, clarify the rules, and require the use of structured data for this information.</p>

Considering the various revisions outlined in the Proposing Release, we estimate that proposed new Rule 13a-21, Item 703 of Regulation S-K, Item 16E of Form 20-F, and Rule 405 of Regulation S-T (interactive data file submission requirements) would increase the paperwork burden for filings on the affected forms that include share repurchase disclosure. However, not all filings on the affected forms include these disclosures because they are provided only when an issuer conducts share repurchases that trigger the disclosure requirement. Therefore, to estimate the increase in overall paperwork burden from the proposed amendments, we first estimated the number of filings that include share repurchase information. As indicated above,

we estimate that approximately 3,300 operating companies (among them, approximately 250 foreign private issuers filing on Form 20-F) during fiscal year 2020 would be affected by the amendments. Based on the staff’s findings, the table below sets forth our estimates of the number of filings on these forms that included share repurchase disclosure. We used this data to extrapolate the effect of these changes on the paperwork burden for the listed periodic reports.⁷

Table 3: Estimated Number of Affected Filings

Form	Current Annual Responses in PRA Inventory	Number of Filings that Include Share Repurchase Disclosure
10-K	8,292	3,050
10-Q	22,925	9,150
20-F	729	250

Below we estimate the incremental and aggregate changes in paperwork burden as a result of the proposed amendments. These estimates represent the average burden for all issuers, both large and small. In deriving our estimates, we recognize that the burdens will likely vary among individual issuers. The proposed amendments would create a new required collection of information and change the burden per response of existing collections of information, if adopted.

We calculated the burden estimates by adding the estimated additional burden to the existing estimated responses and multiplying the estimated number of responses by the estimated average amount of time it would take an issuer to prepare and review disclosure required under the proposed amendments. For purposes of the PRA, the burden is to be allocated between internal burden hours and outside professional costs. Table 4 below sets forth the percentage estimates we typically use for the burden allocation for each collection of information and the estimated burden allocation for the proposed new collection of information. We also estimate that the average cost of retaining outside professionals is \$400 per hour.⁸

⁷ The OMB PRA filing inventories represent a three-year average. Averages may not align with the actual number of filings in any given year.

⁸ We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis, we estimate that such costs would be an average of \$400 per hour. This estimate is based on consultations with several issuers, law firms, and other persons who regularly assist issuers in preparing and filing reports with the Commission.

Table 4. Estimated Burden Allocation for the Affected Collections of Information

Collection of Information	Internal	Outside Professionals
Forms 10-K, 10-Q, SR	75%	25%
Form 20-F	25%	75%

Table 5 below illustrates the incremental change to the total annual compliance burden of affected forms, in hours and in costs, as a result of the proposed amendments' estimated effect on the paperwork burden per response.

Table 5. Calculation of the Incremental Change in Burden Estimates of Current Responses Resulting from the Proposed Amendments

Collection of Information	Number of Estimated Affected Responses (A) ^a	Burden Hour Increase per Response (B)	Change in Burden Hours (C) = (A) x (B)	Change in Company Hours (D) = (C) x 0.75 or 0.25	Change in Professional Hours (E) = (C) x 0.25 or 0.75	Change in Professional Costs (F) = (E) x \$400
10-K	3,050	3	9,150	6,862.5	2,287.5	\$915,000
10-Q	9,150	3	27,450	20,587.5	6,862.5	\$2,745,000
20-F	250	3	750	187.5	562.5	\$225,000
Total				27,637.5		\$3,885,000

The following tables summarize the requested paperwork burden, including the estimated total reporting burdens and costs, under the proposed amendments.

Table 6. Requested Paperwork Burden under the Proposed Amendments⁹

Form	Current Burden			Program Change			Requested Change in Burden		
	Current Annual Responses (A)	Current Burden Hours (B)	Current Cost Burden (C)	Number of Affected Responses (D)	Change in Company Hours (E)	Change in Professional Costs (F)	Annual Responses (G)	Burden Hours (H) = (B) + (E)	Cost Burden (I) = (C) + (F)
Form 10-K	8,292	13,988,811	\$1,835,594,519	3,050	6,862.5	\$915,000	8,292	13,995,674	\$1,836,509,519
Form 10-Q	22,925	3,098,084	\$410,257,154	9,150	20,587.5	\$2,745,000	22,925	3,118,672	\$413,002,154
Form 20-F	729	479,303	\$576,533,425	250	187.5	\$225,000	729	479,491	\$576,758,425

Table 7 summarizes the requested paperwork burden for the new Form SR collection of

⁹ For purposes of the PRA, the requested change in burden hours (column H) is rounded to the nearest whole number.

information, including the estimated total reporting burdens and costs, under the proposed amendments. For purposes of the PRA, we estimate that new Form SR will entail a 1.5 hour compliance burden per response with 176,800 annual responses.

PRA Table 7. Requested Paperwork Burden for the new Collection of Information

Collection of Information	Requested Paperwork Burden		
	Annual Responses (A)	Burden Hours (A) x 1.5 x (0.75)	Cost Burden (A) x 1.5 x (0.25) x \$400
Form SR	176,800	198,900	\$26,520,000

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 \$125,800,170 in fiscal year 2021 based on the Commission’s computation of the value of staff time devoted to this activity and related overhead.¹⁰

15. REASON FOR CHANGE IN BURDEN

As explained in further detail in Items 1, 12 and 13 above, changes in burden for Form 10-K, Form 10-Q, and Form 20-F would result from the proposed amendments to those rules. Similarly, the new burden for Form SR would result from the burden required to implement the new form. These amendments were proposed in order to improve the quality, relevance, and timeliness of information related to issuer share repurchases.

16. INFORMATION COLLECTION PLANNED FOR STATISTICAL PURPOSES

The information collections do not employ statistical methods.

17. APPROVAL TO OMIT OMB EXPIRATION DATE

We request authorization to omit the expiration date on the electronic version of the forms and schedule. Including the expiration date on the electronic version of the form and schedule will result in increased costs, because the need to make changes to the form and schedule may not follow the application’s scheduled version release dates. The OMB control number will be displayed.

¹⁰ The paperwork burdens for Regulation S-K that are imposed for Regulation S-K are imposed through the forms that are subject to the requirements in these regulations and are reflected in the analysis of those forms. OMB has discontinued the OMB Control Number for this regulation so that the PRA inventory would not reflect duplicative burdens.

18. EXCEPTIONS TO CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS

There are no exceptions for the Paperwork Reduction Act submissions.

B. STATISTICAL METHODS

The information collections do not employ statistical methods.

Form 10-K Short Statement

Form 10-K is an annual report filed by registrants that have a class of securities registered pursuant to Section 12 of the Exchange Act or have an Exchange Act Section 15(d) reporting obligation in connection with an effective Securities Act registration statement. The annual report on Form 10-K provides a comprehensive overview of the company's business and financial condition and includes audited financial statements. The proposed rule amendments would require additional disclosure regarding the structure of an issuer's repurchase program and its share repurchases; require a new checkbox to indicate if certain of the issuer's officers or directors purchased or sold the issuer's equity securities within 10 business days of the announcement of a related issuer repurchase program; and require share repurchase information to be reported using a structured data language. As a result of these proposed amendments, for purposes of the PRA, we estimate that, for Form 10-K, the proposed amendments would result in an increase of 6,862.5 burden hours and \$915,000 for the services of outside professionals.

Form 10-Q Short Statement

Form 10-Q is a quarterly report filed by registrants that have a reporting obligation under Section 13 of the Exchange Act in connection with a class of securities registered under Section 12 of the Exchange Act, or have a reporting obligation pursuant to Section 15(d) of the Exchange Act in connection with an effective Securities Act registration statement. The Form 10-Q includes unaudited financial statements and provides a continuing view of the company's financial position during the year. The proposed rule amendments would require additional disclosure regarding the structure of an issuer's repurchase program and its share repurchases; require a new checkbox to indicate if certain of the issuer's officers or directors purchased or sold the issuer's equity securities within 10 business days of the announcement of a related issuer repurchase program; and require share repurchase information to be reported using a structured data language. As a result of these proposed amendments, for purposes of the PRA, we estimate that, for Form 10-Q, the proposed amendments would result in an increase of 20,587.5 burden hours and \$2,745,000 for the services of outside professionals.

Form 20-F Short Statement

Form 20-F is an annual report filed by foreign private issuers that have a class of securities registered pursuant to Section 12 of the Exchange Act or have an Exchange Act Section 15(d) reporting obligation in connection with an effective Securities Act registration statement. The annual report on Form 20-F provides a comprehensive overview of the foreign private issuer's business and financial condition and includes audited financial statements. The proposed rule amendments would require additional disclosure regarding the structure of an issuer's repurchase program and its share repurchases; require a new checkbox to indicate if certain of the issuer's officers or directors purchased or sold the issuer's equity securities within 10 business days of the announcement of a related issuer repurchase program; and require share repurchase information to be reported using a structured data language. As a result of these proposed amendments, for purposes of the PRA, we estimate that, for Form 20-F, the proposed amendments would result in an increase of 187.5 burden hours and \$225,000 for the services of outside professionals.

Form SR Short Statement

The proposed new form would require registrants conducting share repurchase activity to provide a compilation of six required data elements relating to that activity for each date that the form is required, tagging the data using Inline XBRL, and preparing and submitting the Form. As a result, for purposes of the PRA, we estimate that, for proposed Form SR, the proposed amendments would result in 198,900 burden hours and \$26,520,000 for the services of outside professionals.