

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 20, 2023, the Commission issued a release adopting rule and form amendments to enhance and modernize the investor protection provided by the Investment Company Act’s “names rule,” rule 35d-1 under the Investment Company Act.⁷ The names rule requires registered investment companies whose names suggest a focus in a particular type of investment (among other areas) to adopt a policy to invest at least 80 percent of the value of their assets in those investments (an “80 percent investment policy”). The final amendments, among other things, extend the requirement

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 *Investment Company Names*, Investment Company Act Release No. 35000, (September 20, 2023) (the “Names Rule Adopting Release”).

to any fund name with terms suggesting that the fund focuses in investments that have (or whose issuers have) particular characteristics.

Further, the Commission adopted final amendments to Form N-8B-2 to require each fund that is required to adopt and implement an 80 percent investment policy to include disclosure in its prospectus that defines the terms used in its name, including the specific criteria the fund uses to select the investments that the term describes, if any.⁸ UITs that are updating their registration statements on Form S-6 would be required to address these disclosure requirements.

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.⁹ Prospectuses may be sent to investors by electronic means so long as certain requirements are met.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 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

⁸ See instruction (2) to Item 11 of Form N-8B-2; Names Rule Adopting Release.

⁹ See rule 101(a)(1)(i) of Regulation S-T [17 CFR 232.101(a)(1)(i)].

¹⁰ See Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)].

¹¹ 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

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 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 determining whether to adopt the proposed amendments affecting Form S-6, the Commission received and evaluated public comments on the proposal's collection of information requirements. The Commission's solicitation of public comments included estimating and requesting public comments on the burden estimates for all information collections under this OMB control number (i.e., both changes associated with the rulemaking and other burden updates). We did not receive comments

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.*

on the Commission’s collection of information requirements for Form S-6. Moreover, 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 that may confront the industry.

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 1995¹³ 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.

¹³ 44 U.S.C. 3501 *et seq.*

TABLE 1: ESTIMATES FOR AMENDMENTS TO FORM S-6
(AS REFLECTED IN NAMES RULE ADOPTING RELEASE)

	Initial Hours	Annual hours ¹		Wage rate ²	Internal Costs	Annual External Costs
CURRENTLY APPROVED BURDENS						
Draft and Update Disclosures on Form S-6 ³	24 hours	18 hours	x	\$356 (1:1 blend of compliance attorney and senior programmer)	\$6,408	\$27,265
Number of Responses		2,498			2,498	2,498
Current Burden Requirement		107,359			\$16,007,184	\$68,107,970
PROPOSED BURDENS						
Proposed New Names Rule Disclosure	7 hours	10 hours	x	\$356 (1:1 blend of compliance attorney and senior programmer)	\$3,560	\$992 ⁵
Number of Responses		x 785 filings ⁴			x 785 filings	785 filings
TOTAL PROPOSED ESTIMATED BURDENS INCLUDING AMENDMENTS						
Total New Annual Burden		7,850 hours			\$2,794,600	\$778,720
FINAL ESTIMATED BURDENS						
New Names Rule Disclosure	7 hours	10 hours	x	\$406 (1:1 blend of compliance attorney and senior programmer)	\$4,060	\$1,130 ⁵
Number of Responses		x 764 filings ⁶			x 764 filings	764 filings
TOTAL FINAL ESTIMATED BURDENS INCLUDING AMENDMENTS						
Total New Annual Burden		7,640 hours			\$3,101,840	\$863,320
Total New Aggregate Burden		114,999 hours			\$19,109,024	\$68,971,290

Notes:

1. Includes initial burden estimates annualized over a 3-year period.

2. The estimated wage figures are based on published rates for the professionals described in this chart, modified to account for an 1800-hour work-year and inflation. The estimates for the proposed and final burdens were multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. See Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013.

3. Form S-6 incorporates the disclosure requirements of Form N-8B-2 for UITs on an ongoing basis. Because Form S-6 incorporates the requirements of Form N-8B-2, the amendments would indirectly affect these entities. UITs that have made their initial deposit of securities prior to the effective date of any final rule would be required to update their disclosure on Form S-6 to comply with the amended requirements of Form N-8B-2. As discussed above, UITs formed after the adoption of any final rules would be required to comply with the proposed disclosure requirements upon formation when those UITs file Form N-8B-2 with the Commission.

4. The currently-approved PRA burden for rule 35d-1 was based on the Commission's estimate that 83% of funds were covered by rule 35d-1. The Commission estimated that 75% of funds would be covered by our proposed rule amendments, based on this proposal's economic analysis above. The prior PRA burden was based on an estimate using a different analytical approach than we are now employing. The Commission estimated that 62% of funds are currently subject to rule 35d-1 and that our proposed rule amendments would increase this estimate to 75% of funds. The Commission estimated 49 non-separate account and non-ETF UITs registered with the Commission. However, the Commission based its estimate on the belief that using the number of filings instead of registrants would form a more accurate estimate of annual disclosure burdens. The Commission estimated 1,047 filings based on the average number of filings made on Form S-6 from 2018 to 2020. The Commission therefore estimated that there would be approximately 785 filings for funds that have names that would be covered by the proposed rule amendments, or 75% of the filings for UITs covered by the rule amendments (1,047 filings x 75% = 785 filings).

5. The estimated burdens at proposal were based on the estimated wage rate of \$496/hour, and at adoption are based on the estimated wage rate of \$565/hour, for 2 hours, for outside legal services. The Commission's estimates of the relevant wage rate 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. Based on our current analysis, we estimate that 60% of funds are currently subject to rule 35d-1, and that the final amendments will increase this estimate to 76% of funds. The Commission estimates 45 non-separate account and non-ETF UITs registered with the Commission. However, consistent with the Commission's methodology at proposal, we believe that using the number of filings instead of the number of registrants will form a more accurate estimate of annual disclosure burdens. The Commission estimates 1,005 filings based on the average number of filings made on Form S-6 from 2020 to 2022. The Commission therefore estimates that there will be approximately 764 filings for funds that have names that will be covered by the final amendments, or 76% of the filings for UITs covered by the rule amendments (1,005 filings x 76% = 764 filings).

While the estimates in the Names Rules Adopting Release, as reflected in Table 1, were based on the previously-approved inventory of 2,498 responses (and hour burden of 107,359 hours), we note that this inventory has been updated in the interim to 1,626 responses (with an hour burden of 68,365 hours). Therefore, instead of a total new aggregate burden of 114,999 hours, we estimate a total new aggregate burden of 76,005 hours (68,365 hours + 7,640 hours). Likewise, the estimates of total aggregate external cost were based on the previously-approved estimate of \$68,108,956, but this estimate has been updated in the interim to \$53,787,113. Therefore, instead of a total estimated aggregate external cost of \$68,971,290, we estimate a total estimated aggregate external cost of \$54,650,433 (\$53,787,113 + \$863,320). We continue to estimate that these burdens would be spread across 1,626 responses.¹⁴

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. We estimate that the annual cost of outside services associated with the amendments would be approximately \$863,320, with a total annual external cost burden of \$54,650,433 as detailed in Item 12 above.

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 \$29 million in fiscal year 2022, based on the Commission's computation of the value of staff time devoted to this activity and related overhead.

15. Changes in Burden

The final amendments would result in a number of changes to the currently approved burden. The disclosure requirements would add approximately 10 annual hours per response, increasing the total annual aggregate burden from 68,365 hours to 76,005 hours (an increase of 7,640 hours). The estimated cost burden associated has increased from \$53,787,113 to \$54,650,433 (an increase of \$863,320). This increase is due to the new requirement for each fund that is required to adopt and implement an 80% investment policy to include disclosure in its prospectus that defines the terms used in its name, including the specific criteria the fund uses to select the investments that the term describes, if any. These changes in burden also reflect the Commission's revision and

¹⁴ Of these responses, we estimate 3 respondents are small entities. *See* 2023 Names Rule Adopting Release at section VI.C.

update of burden estimates for all information collections under this OMB control number (whether or not associated with rulemaking changes), and the Commission requested public comment on all information collection burden estimates for this OMB control number.

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.