

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Rule 482

A. JUSTIFICATION

1. Necessity for the Information Collection

Like most issuers of securities, when an investment company¹ (“fund”) offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the “Securities Act”). In recognition of the particular problems faced by funds that continually offer securities and wish to advertise their securities, the Securities and Exchange Commission (“Commission”) has adopted advertising safe harbor rules. The most important of these is rule 482 (17 CFR 230.482) under the Securities Act, which, under certain circumstances, permits funds to advertise investment performance data, as well as other information. Rule 482 advertisements are deemed to be “prospectuses” under Section 10(b) of the Securities Act (15 U.S.C. 77j(b)).

Rule 482 contains certain requirements regarding the disclosure that funds are required to provide in qualifying advertisements. These requirements are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. For example, a fund is required to include disclosure advising investors to consider the fund’s investment objectives, risks, charges, and expenses, and other information described in the fund’s prospectus, and highlighting the availability of the fund’s prospectus. In addition, rule 482 advertisements that include performance data of open-end

¹ “Investment company” refers to both investment companies registered under the Investment Company Act of 1940 (“Investment Company Act”) (15 U.S.C. 80a-1 et seq.) and business development companies.

funds or insurance company separate accounts offering variable annuity contracts are required to include certain standardized performance information, information about any sales loads or other nonrecurring fees, and a legend warning that past performance does not guarantee future results. Such funds including performance information in rule 482 advertisements are also required to make available to investors month-end performance figures via website disclosure or by a toll-free telephone number, and to disclose the availability of the month-end performance data in the advertisement. The rule also sets forth requirements regarding the prominence of certain disclosures, requirements regarding advertisements that make tax representations, requirements regarding advertisements used prior to the effectiveness of the fund's registration statement, and requirements regarding the timeliness of performance data. In addition, rule 482(b) describes the information that is required to be included in an advertisement, including a cautionary statement under rule 482(b)(4) disclosing the particular risks associated with investing in a money market fund.

On November 7, 2024, the Commission adopted amendments to rule 482 to correct outdated cross-references and conform the risk statements that money market funds must include in their advertisements and sales literature to the risk statements that money market funds must include in their prospectuses.² The 2023 money market fund reform adopting release amended the risk statements that money market funds must include in their prospectuses to align with the changes to money market fund regulations adopted in that release.³ However, rule 482 was not

² Conforming Amendments to Commission Rules and Forms, Investment Company Act Release No. 35377 (Nov. 7, 2024) (the "Adopting Release").

³ See Money Market Fund Reforms; Form PF Reporting Requirements for Large Liquidity Fund Advisers; Technical Amendments to Form N-CSR and Form N-1A, Investment Company Act Release No. 34959 (July 12, 2023) [88 FR 51404 (Aug. 3, 2023)].

included in the amendments and the statements that rule 482 required were inconsistent with the recently amended regulatory framework for money market funds. Further, the risk statements that money market funds were required to include in prospectuses and advertisements have otherwise always been identical and the risk statements should not differ based on whether an investor is reviewing a prospectus or an advertisement. As a result, rule 482 included outdated references to concepts that have been removed or significantly modified in underlying money market fund regulations (e.g., allowing temporary suspensions of redemptions). The amendments to rule 482 correct this error, make certain other conforming edits to further align the language of the risk statements with the risk statements that money market funds must include in their prospectuses, and correct inaccurate cross references to money market fund rules.

Compliance with the requirements of rule 482 is mandatory and the responses to the information collections would not be kept confidential.

2. Purpose and Use of the Information Collection

Rule 482 advertisements must be filed with the Commission or, in the alternative, with the Financial Industry Regulatory Authority (“FINRA”).⁴ This information collection differs from many other federal information collections that are primarily for the use and benefit of the collecting agency.

⁴ See note to rule 482(h) under the Securities Act, which states that “these advertisements, unless filed with [FINRA], are required to be filed in accordance with the requirements of §230.497.” See also rule 24b-3 under the Investment Company Act (17 CFR 270.24b-3), which provides that any sales material, including rule 482 advertisements, shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with FINRA.

Rule 482 contains requirements that are intended to encourage the provision to investors of information that is balanced and informative. The Commission is concerned that in the absence of such provisions fund investors may be misled by deceptive rule 482 advertisements and may rely on less-than-adequate information when determining in which funds they should invest money. As a result, the Commission believes it is beneficial for funds to provide investors with balanced information in fund advertisements in order to allow investors to make better-informed decisions.

3. Consideration Given to Information Technology

The Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") automates the filing, processing and dissemination of disclosure filings. This automation has increased the speed, accuracy, and availability of information, generating benefits to investors and financial markets. The vast majority of fund advertisements are filed with FINRA under Investment Company Act rule 24b-3, which allows any sales material filed with FINRA to be deemed to be filed with the Commission.⁵ Rule 482 advertisements that are required to be filed with the Commission are to be filed electronically on EDGAR (17 CFR 232.101(a)(1)(i) and (iv)). 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.

4. Efforts to Identify Duplication

The Commission periodically evaluates rule- and form-based reporting and recordkeeping requirements for duplication, and reevaluates them whenever it proposes or adopts

⁵ *Id.*

changes in its rules or forms. The requirements of rule 482 are not generally duplicated elsewhere.

5. Effect on Small Entities

The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), to identify methods to minimize recordkeeping or reporting requirements affecting small businesses. The current disclosure requirements for fund advertisements do not distinguish between small entities and other entities. To the extent smaller funds advertise, their burden to prepare advertisements may be greater than for larger funds due to economies of scale. This burden will include the cost of reviewing an advertisement to confirm that it meets the requirements of rule 482.

The Commission believes, however, that imposing different requirements on smaller fund companies would not be consistent with investor protection. The use of different standards for small entities may create a risk that investors may receive false or misleading information. In addition, the Commission believes that uniform disclosure standards for all fund advertisements allow investors to compare funds more easily when making an investment decision. Allowing different standards for small entities may create confusion for investors who wish to compare funds.

6. Consequences of Not Conducting Collection

Since fund advertising is voluntary, the Commission does not determine the frequency with which funds advertise pursuant to rule 482. Therefore, short of not requiring any collection for advertisements governed by rule 482, the Commission cannot require less frequent collection.

Not requiring disclosure of the information required by rule 482 will harm investors by denying them information that may be useful in making investment decisions. If such advertisements did not contain this disclosure, investors could receive inadequate information or

could receive confusing, false, or misleading information. As a result, investor confidence in the securities industry could be adversely affected.

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 the staff with a means of ascertaining and acting upon paperwork burdens confronting the industry. The Commission requested public comment on the collection requirements in rule 482 before it submitted this request for revision 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 agency has determined that this information collection does not constitute a system of record for purposes of the Privacy Act (the 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 is provided as a supplemental document and is available at <https://www.sec.gov/privacy>.

12. Burden of Information Collection

The burden hour estimate for complying with rule 482 is based the Commission's experience with the contents of disclosure documents. The number of burden hours may vary depending on, among other things, the complexity of the document, the number of funds included in a single document, and whether preparation of the document is performed by fund staff or outside counsel. The number of funds used to estimate the burden hours is an estimate based on the Commission's statistics. The following estimates of average burden hours are made solely for purposes of the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 et seq.) and are not derived from a comprehensive or representative survey or study of the cost of Commission rules and forms. Compliance with the requirements of rule 482 is mandatory, and responses to the information collections are not kept confidential.

The table below summarizes our estimates associated with the amendments to rule 482 that the Adopting Release addresses:

Table 1: RULE 482 PRA ESTIMATES

	Internal initial burden hours	Internal annual burden hours ¹	Wage rate ²	Internal time costs ¹
ESTIMATES				
Amended risk statement in advertisement	0.5 hours	0.17 hours ³	\$429 ⁴	\$73
Number of funds		× 291 ⁵		× 291 ⁵
Total estimated burden		49		\$21,243
Current Burden Estimates		577,847		\$213,133,255
Revised Burden Estimates		577,896		\$213,154,498

Notes:

¹. This estimate includes the initial burden and internal time costs estimates amortized over a three-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 estimated figures for the proposed 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. This estimate assumes that, after the initial 0.5 hours to amend the fund's risk statement, funds would not have an ongoing burden associated with the amendment.

⁴. This represents a blended rate for a compliance attorney (\$449) and a senior programmer (\$408).

⁵. The number of funds estimate is based on the number of money market funds reporting to the Commission on Form N-MFP as of Dec. 2023.

The table above summarizes our PRA initial and ongoing annual burden estimates associated with rule 482, as amended. In the aggregate, we estimate the total annual burden to comply with amended rule 482 to be 577,896 hours, at an average time cost of \$213,154,498.

13. Cost to Respondents

Cost burden is the cost of services purchased to comply with rule 482, such as for the services of computer programmers, outside counsel, financial printers, and advertising agencies. The external cost burden does not include the internal cost of the hour burden discussed in Item 12 above. Estimates are based on the Commission's experience with advertisements and sales literature. As reflected in the table above, the Commission continues to attribute no external cost burden to rule 482.

14. Cost to the Federal Government

Advertising regulation affects costs incurred by the federal government. Responses associated with rule 482 generally are filed with and reviewed by FINRA and generally not reviewed by the Commission.

15. Change in Burden

On November 7, 2024, the Commission adopted amendments to rule 482 to conform the risk statements that money market funds must include in their advertisements and sales literature to the risk statements that money market funds must include in their prospectuses.⁶ As summarized in Table 1 above, the estimated annual hourly burden associated with rule 482 has increased from 577,847 hours to 577,896 hours (an increase of 49 hours) as a result of these amendments. This reflects a slight increase of hours associated with the one-time updates to the wording of the risk statements already required under current rule 482(b)(4) for certain registrants. There is no annual external cost burden attributed to rule 482.

16. Information Collection Planned for Statistical Purposes

The results of any information collected will not be published.

17. Approval to Omit OMB Expiration Date

Not applicable.

18. Exception 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.

⁶ Conforming Amendments to Commission Rules and Forms, Investment Company Act Release No. 35377 (Nov. 7, 2024) (the “Adopting Release”).