

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Rule 0-2 and Form ADV-NR

A. JUSTIFICATION

1. Necessity for the Information Collection

Rule 0-2 under the Investment Advisers Act of 1940 (“Advisers Act”) (17 CFR 275.0-2) establishes procedures by which a person may serve non-residents. Pursuant to rule 0-2, persons who wish to serve process, pleadings, or other papers on a non-resident investment adviser, or on an investment adviser’s non-resident general partner or non-resident managing agent may do so by furnishing the Securities and Exchange Commission (“Commission” or “SEC”) with one copy of the papers that are to be served, along with one copy for each named party. The Secretary of the Commission (“Secretary”) will promptly forward a copy to each named party by registered or certified mail. If the Secretary certifies that the rule was followed, the certification constitutes evidence of service of process.

Form ADV–NR (17 CFR 279.4) designates the Secretary, among others, as the non-resident general partner’s or non-resident managing agent’s agent for service of process.¹ An investment adviser’s non-resident general partner and non-resident managing agent must file Form ADV-NR in connection with the adviser’s initial Form ADV submission or within 30 days of becoming a non-resident after the investment adviser submits its initial Form ADV.² They must file Form ADV-NR electronically through the Investment Adviser Registration Depository

¹ A non-resident investment adviser designates the Secretary, among others, as its agent for service of process by executing Form ADV (17 CFR 279.1). This burden estimate is incorporated into a separate burden estimate for Form ADV. *See* Form ADV, Non-Resident Investment Adviser Execution.

² 17 CFR 275.203-1(d).

(“IARD”), absent a hardship exemption.³ IARD does not require specialized software or hardware, and does not assess a fee for filing Form ADV-NR. Non-resident general partners and non-resident managing agents must amend their Form ADV-NR within 30 days whenever any information contained in the form becomes inaccurate by filing a new Form ADV-NR with the Commission.⁴

The title of this collection of information is “Rule 0-2 and Form ADV-NR under the Investment Advisers Act of 1940.” Rule 0-2 and Form ADV-NR contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995.⁵ This collection of information has been previously approved and subsequently extended by the Office of Management and Budget (“OMB”) under control number 3235-0240. The likely respondents to this information collection are each non-resident general partner and non-resident managing agent of both SEC-registered investment advisers and exempt reporting advisers.⁶ This collection of information is found at 17 CFR 275.0-2 and 17 CFR 279.4 and it is mandatory. Responses are not kept confidential. The collection of information is necessary for the Commission to obtain appropriate consent to permit the Commission and other parties to bring actions against non-resident partners and agents for violations of the federal securities laws and to enable the commencement of legal and regulatory actions against investment advisers that are doing business in the United States, but are not residents.

³ 17 CFR 275.203-1(d)(3).

⁴ 17 CFR 275.203-1(d)(2).

⁵ 44 U.S.C. 3501 *et seq.*

⁶ *See* Form ADV, General Instruction 19 (Who is required to file Form ADV-NR?).

2. Purpose and Use of the Information Collection

Rule 0-2 and Form ADV-NR facilitate service of process on a non-resident general partner or non-resident managing agent of an investment adviser. Form ADV-NR designates the Secretary, among others, as the agency for service of process for non-resident general partners and non-resident managing agents. The collection of information is necessary for the Commission to obtain appropriate consent to permit the Commission and other parties to bring actions against non-resident partners and agents for violations of the federal securities laws and to enable the commencement of legal and regulatory actions against investment advisers that are doing business in the United States, but are not residents. Respondents include non-resident general partners and non-resident managing agents of both SEC-registered investment advisers and exempt reporting advisers.

3. Consideration Given to Information Technology

An investment adviser's non-resident general partners and non-resident managing agents must file Form ADV-NR electronically through IARD, absent a hardship exemption.⁷ IARD is an Internet-based system that does not require specialized software or hardware. IARD stores filing information in a database, and the general public has Internet-access to the data.

4. Duplication

The collection of information requirements are not duplicated elsewhere.

5. Effect on Small Entities

All SEC-registered investment advisers and exempt reporting advisers, regardless of their size, are equally subject to the collection requirements of Rule 0-2 and Form ADV-NR. If we

⁷ 17 CFR 275.203-1(d)(3).

were to exempt small entities, it would be much more difficult to obtain appropriate consent from such small entities to permit the Commission and other parties to bring actions against their non-resident partners and agents for violations of the federal securities laws and to enable the commencement of legal and regulatory actions against investment advisers that are small entities and doing business in the United States, but are not residents. Therefore, it would defeat the purpose of Rule 0-2 and Form ADV-NR to exempt small entities from the information collection requirements. The information collection requirements will not affect most investment advisers that are small entities because they generally are prohibited from registering with the Commission and are subject to state regulation.⁸

6. Consequences of Not Conducting Collection

If we did not require a non-resident general partner or non-resident managing agent to file Form ADV-NR, which appoints an agent for service of process, it would be much more difficult for the Commission and other parties to effectively bring a lawsuit against a non-resident investment adviser.

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

Not applicable.

8. Consultation Outside the Agency

The Commission and the staff of the Division of Investment Management participate in an

⁸ Under Advisers Act Rule 0-7 (17 CFR 275.0-7), for purposes of the Regulatory Flexibility Act an investment adviser generally is a small entity if it: (1) has assets under management of less than \$25 million; (2) did not have total assets of \$5 million or more on the last day of its most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of \$25 million or more, or any person (other than a natural person) that had total assets of \$5 million or more on the last day of its most recent fiscal year. *See* 15 U.S.C. 80b-3a.

ongoing dialogue with representatives of the investment adviser profession 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 facing the industry.

The Commission requested public comment on the collection of information requirements 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

None.

10. Confidentiality

The information collected pursuant to Rule 0-2 and Form ADV-NR are filings with the Commission. These disclosures are not kept confidential.

11. Sensitive Questions

Form ADV-NR collects information about the investment adviser's name, SEC file number, CRD number (if applicable), and the mailing address of the non-resident general partner or non-resident managing agent of the investment adviser. Form ADV-NR does not collect Social Security Numbers. A System of Records Notice has been published in the Federal Register at 83 FR 6892 and can also be found at

<http://www.sec.gov/about/privacy/secprivacyoffice.htm>.

a. No information of a sensitive nature will be required under this collection of information.

b. The information collection collects basic Personally Identifiable Information (PII) that may include the investment adviser's name, SEC file number, CRD number (if applicable), and the mailing address of the non-resident general partner or non-resident managing agent of

the investment adviser. The agency has determined that the information collection constitutes a system of record for purposes of the Privacy Act and is covered under System of Records Notice (SORN) “System of Records.” The SORN is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>. A Privacy Act Statement is applicable for the information collection and is available on the web form.

c. Form ADV-NR must be filed through IARD, absent a hardship exemption. In accordance with Section 208 of the E-Government Act of 2002, the agency has conducted a Privacy Impact Assessment (PIA) of the IARD system, in connection with this collection of information. The IARD PIA is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>.

12. Burden of Information Collection

We are updating the burden estimates to reflect more recent data. We continue to estimate that final Form ADV-NR will require an average of one hour to complete, which is the same as the previously approved estimate.⁹ Taking into account more recent data from 2022 to August 2024, the Commission received an average of 41 Form ADV-NR filings per year, which represents an increase of 20 responses from the previously approved 21 responses.¹⁰ Accordingly, as each response takes an average of one hour to complete, we estimate that the aggregate annual time burden for Form ADV-NR will be 41 hours, which represents an increase

⁹ For the previously approved estimates, see ICR Reference No. 202207-3235-002 (conclusion date Aug. 23, 2022), *available at* https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202207-3235-002.

¹⁰ (12 filings in 2022 + 59 filings in 2023 + 51 filings in 2024 = 122 filings) / 3 years = an average of 40.6 filings a year, rounded to 41 filings a year.

of 20 hours from the previously approved burden of 21 hours.¹¹

We are updating the estimated monetized cost burden to reflect more recent wage estimates for 2024.¹² Form ADV-NR filers will likely use a combination of compliance clerks and general clerks to complete Form ADV-NR and file it with the Commission through IARD. The Commission staff estimates the hourly wage for compliance clerks to be \$86 per hour, and the hourly wage for general clerks to be \$77 per hour. For each burden hour, compliance clerks will perform an estimated 0.75 hours, and general clerks will perform an estimated 0.25 hours. Therefore, we estimate the monetized time burden per response to be \$84,¹³ for an aggregate monetized time burden of \$3,444.¹⁴ This represents an increase of \$1,869 from the previously approved monetized time burden of \$1,575.

¹¹ (41 annual responses x 1 hour per response = an aggregate annual time burden of 41 hours.)

¹² The Commission's estimates of the relevant wage rates are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013. The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

¹³ (0.75 hours per compliance clerk x \$86 an hour) + (0.25 hours per general clerk x \$77 an hour) = \$83.75, rounded to \$84.

¹⁴ \$84 per adviser x 41 advisers = \$3,444.

Table 1: Summary of the Aggregate Annual Number of Responses, Time Burden, Monetized Time Burden, and External Cost Burden

Description	Requested	Previously Approved	Change
Number of Responses	41 responses	21 responses	20 responses
Time Burden	41 hours	21 hours	20 hours
Monetized Time Burden	\$3,444	\$1,575	\$1,869
External Cost Burden ¹⁵	\$0	\$0	\$0

13. Cost to Respondents

We continue to estimate that there will be no external cost burdens, as previously approved.

14. Cost to the Federal Government

There are no additional costs to the federal government.

15. Change in Burden

We estimate that the aggregated annual number of responses would be 41 responses, which is an increase of 20 responses from the previously approved estimate of 21 responses. We estimate that the aggregate annual time burden would be 41 hours, which is an increase of 20 hours from the previously approved estimate of 21 hours. We estimate that the aggregate annual monetized time burden would be \$3,444, which is an increase of \$1,869 from the previously approved estimate of \$1,575. The increases appear to be due to using updated data, regarding persons who have filed Form ADV-NR. These changes in burden also reflect the Commission's revision and update of burden estimates for all information collections under this OMB control

¹⁵ See *infra* Item 13 (Cost to Respondents).

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

Not applicable.

17. Approval to Omit OMB Expiration Date

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

18. Exceptions to Certification Statement for Paperwork Reduction Act Submission

Not applicable.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.