

from the current annual burden of 3,612,049 hours. Based on a burden hour estimate of two hours per portfolio per year, we estimate that the total burden hours of complying with Form N-CSR for registered management investment companies, revised to include the burden hours expected from the proposed amendments, will be 142,498 hours, an increase of 19,700 hours<sup>63</sup> from the current annual burden of 122,798 hours.

In the case of foreign private issuers, based on a burden hour estimate of two hours per respondent per year, we estimate that the total burden hours of complying with Forms 20-F and 40-F, revised to include the burden hours expected from the proposed amendments, will be 655,521.25 hours for Form 20-F, an increase of 2,400<sup>64</sup> from the current annual burden of 653,121.25 hours, and 1,412.25 hours for Form 40-F, an increase of 200 hours<sup>65</sup> from the current annual burden of 1,212.25 hours.

#### C. Request for Comment

We request comment in order to: (a) Evaluate whether the proposed information collections are necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility; (b) evaluate the accuracy of our estimate of the burden of the proposed amendments; (c) determine whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (d) evaluate whether there are ways to minimize the burden of the proposed amendments on those who respond, including through the use of automated collection techniques or other forms of information technology.<sup>66</sup>

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the proposed collection of

information requirements should direct their comments to the OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609, with reference to File No. S7-06-03. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7-06-03 and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street NW., Washington, DC 20549. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, your comments are best assured of having their full effect if the OMB receives them within 30 days of publication.

#### VI. Cost-Benefit Analysis

The proposed amendments would relocate the certifications required by Exchange Act Rules 13a-14 and 15d-14 from the text of quarterly and annual reports filed or submitted under section 13(a) or 15(d) of the Exchange Act to the "Exhibits" section of these reports. The proposed amendments also would require that the certifications required by section 1350 of Title 18 of the United States Code, added by section 906 of the Act, accompany the periodic reports to which they relate as an exhibit to these reports. These changes should enhance the ability of investors and the Commission staff to verify that the certifications have, in fact, been submitted with the Exchange Act reports to which they relate and to review the contents of the certifications to ensure compliance with the applicable requirements. In addition, the changes should enable the Department of Justice, which has responsibility for enforcing section 906, to effectively review the form and content of the certifications required by that provision.

Since issuers must already include the certifications required by Exchange Act Rules 13a-14 and 15d-14 in their quarterly and annual reports, there should be no incremental cost to relocating the certifications from the text of the reports to the "Exhibits" section of these reports. Requiring the section 906 certifications to be included as an exhibit to the periodic reports to which they relate may lead to some additional costs for issuers that

currently are submitting the certifications to the Commission in some other manner. While these costs are difficult to quantify, we estimate that the annual paperwork burden of the proposed amendments would be approximately \$25.5 million.<sup>67</sup>

To the extent that issuers may assume greater legal risk by including the section 906 certifications as part of their periodic reports filed pursuant to the Exchange Act where these reports are incorporated by reference into Securities Act registration statements, we address this risk by proposing to require issuers to "furnish," rather than "file," the certifications with the Commission for purposes of section 18 of the Exchange Act or incorporation by reference into other filings. Thus, the proposed amendments should mitigate this potential indirect cost of compliance.

#### VII. Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis, or IRFA, has been prepared in accordance with the Regulatory Flexibility Act.<sup>68</sup> It involves proposed amendments that would relocate the certifications required by Exchange Act Rules 13a-14 and 15d-14 from the text of quarterly and annual reports filed or submitted under section 13(a) or 15(d) of the Exchange Act to the "Exhibits" section of these reports, and require that the certifications required by section 1350 of Title 18 of the United States Code, added by section 906 of the Act, accompany the periodic reports to which they relate as an exhibit to these reports.

##### A. Reasons for, and Objectives of, Proposed Rule and Form Amendments

The relocation of the certifications required by Exchange Act Rules 13a-14 and 15d-14 from the text of quarterly and annual reports to the "Exhibits" section of these reports should enhance the ability of investors and the Commission staff to verify that the certifications have, in fact, been submitted with the Exchange Act reports to which they relate and to review the contents of the certifications to ensure compliance with the applicable requirements. In addition, the proposed amendments should

<sup>63</sup> This estimate is based on the current annual burden for registered management investment companies required to file reports on Form N-CSR. We estimate that there are 3,700 registered management investment companies that will file reports on Form N-CSR, containing 9,850 portfolios. The estimate of 19,700 hours is calculated by 9,850 portfolios x two filings per year x one burden hour.

<sup>64</sup> This estimate is based on the current annual burden per filing for each foreign private issuer. The estimate of 2,400 hours is based on an estimate of 1,200 foreign private issuers with one filing per year multiplied by two burden hours for each filing.

<sup>65</sup> This estimate is based on the current annual burden per filing for each Canadian issuer. The estimate of 200 hours is based on an estimate of 100 Canadian issuers with one filing per year multiplied by two burden hours for each filing.

<sup>66</sup> Comments are requested pursuant to 44 U.S.C. 3506(c)(2)(B).

<sup>67</sup> This calculation is based on an estimate of 127,684 burden hours (see nn. 58, 63, 64 and 65 above) multiplied by a cost of \$200.00 per hour. (127,684 hours multiplied by \$200.00 per hour equals \$25,536,800) The hourly cost estimate is based on consultations with several registrants and law firms and other persons who regularly assist registrants in preparing and filing periodic reports with the Commission.

<sup>68</sup> 5 U.S.C. 603.