

77j(b)]. Rule 34b-1 (OMB Control No. 3235-0346) was adopted pursuant to section 34(b) of the Investment Company Act [15 U.S.C. 80a-33(b)].<sup>86</sup>

We published notice soliciting comments on the collection of information requirements in the Proposing Release and submitted these requirements to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. OMB approved these collection requirements.

The amendments modify rule 482 under the Securities Act and related rules and forms, to provide more timely, understandable, and balanced information in fund advertising for the benefit of investors, while simplifying and clarifying the advertising rules for the benefit of funds.<sup>87</sup> First, the amendments enhance the disclosure that funds must provide in advertisements, including by highlighting the availability of information concerning investment objectives, risks, and charges and expenses, and requiring an amended legend stating that past performance does not guarantee future results. The amendments also set forth requirements to help ensure that funds present these and other required disclosures at least as prominently as the material included in the body of the advertisement.

Second, if a fund advertisement includes performance data, the fund must make month-end performance figures available to investors by a toll-free or collect telephone number or on a Web site, and disclose the availability of this month-end performance data in the advertisement, unless the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use. Third, the amendments add clarifying language to rule 482 under the Securities Act and rule 34b-1 under the Investment Company Act to reemphasize the separate applicability of the antifraud provisions of the federal securities laws, and amend rule 156 under the Securities Act to provide further guidance regarding the factors to be weighed in determining whether a statement involving a material fact in investment company sales literature is or might be misleading. Fourth, the amendments (i) remove the provision

contained in rule 482 that limits rule 482 advertisements to only that information the "substance of which" is in the statutory prospectus, and (ii) rescind the provisions in rule 134 under the Securities Act that apply to funds. Fifth, the amendments clarify portions of rule 482 (without changing their content) by adding headings, reordering provisions, and simplifying certain provisions. Finally, the amendments make technical and conforming changes to Forms N-1A, N-3, N-4, and N-6.

Compliance with the disclosure requirements is mandatory. Responses to the disclosure requirements will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

#### B. The Registration Forms Burden

Previously, the PRA burdens imposed by rule 482 were accounted for under the various registration forms used by investment companies affected by the rule: Form N-1A, Form N-2, Form N-3, Form N-4, and Form N-6. We have transferred the burden hours associated with rule 482 from these forms to a separate rule 482 category as follows:

| Form   | Hours transferred (hours) |
|--|---------------------------|
| Form N-1A .....  | 177,514                   |
| Form N-2 .....   | 1,014                     |
| Form N-3 .....   | 792                       |
| Form N-4 .....   | 36,630                    |
| Form N-16 .....  | 9,065                     |
| Total hours transferred to new rule 482 category ..... | 225,015                   |

The information required to be filed with the Commission pursuant to the information collections contained in the registration forms permits the verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

#### 1. Form N-1A

The purpose of Form N-1A is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are open-end funds registering with the Commission. Compliance with the disclosure requirements on Form N-1A is mandatory. Responses to the disclosure requirements are not confidential.

The previous hour burden for preparing an initial Form N-1A filing was 824 burden hours per portfolio, and the Commission attributed 23 of these burden hours per portfolio to compliance with rule 482, reducing the remaining burden hours per portfolio to 801.<sup>88</sup> The previous annual hour burden for preparing post-effective amendments on Form N-1A was 122 hours per portfolio, and the Commission attributed 23 of these burden hours per portfolio to compliance with rule 482, reducing the remaining burden hours per portfolio to 99. The Commission estimated that, on an annual basis, 193 portfolios file initial registration statements on Form N-1A and 7,525 file post-effective amendments on Form N-1A. Thus, the burden hours attributable to rule 482 transferred from Form N-1A to the new rule 482 collection of information amounted to 177,514 ((23 hours x 193 portfolios) + (23 hours x 7,525 portfolios)). After shifting the rule 482 burden hours to a new collection of information, the total burden hours that remain allocated to Form N-1A for all purposes unassociated with rule 482 amount to 899,568 ((801 hours x 193 portfolios) + (99 hours x 7,525 portfolios)).

Except for the transfer of PRA burden from Form N-1A to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N-1A from the amendments. The change in PRA burden resulting from the amendments is accounted for under the new rule 482 collection of information.

#### 2. Form N-2

The purpose of Form N-2 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are closed-end funds registering with the Commission. Compliance with the disclosure requirements of Form N-2 is mandatory. Responses to the disclosure requirements are not confidential.

The previous hour burden for preparing an initial registration statement on Form N-2 was 542.4 burden hours per filing, and the previous hour burden for preparing a post-effective amendment on Form N-2

<sup>86</sup> Although this release also amends rule 156, there are no burden hours assigned to that rule by OMB and it has no OMB control number.

<sup>87</sup> The Commission is adopting amendments to rules 134, 156, and 482 under the Securities Act, rule 34b-1 under the Investment Company Act, and Forms N-1A, N-3, N-4, and N-6 under the Investment Company Act and Securities Act.

<sup>88</sup> The estimate of the burden hours attributable to compliance with rule 482 for filings on Forms N-1A, and Form N-2 were based on information supplied to the Commission staff by members of the fund industry and the staff's experience with these registration forms.