

the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

There are approximately 516 multiple class funds.⁵ Based on a review of typical rule 18f-3 plans, the Commission's staff estimates that the 516 funds together make an average of 258 responses each year to prepare and approve a written rule 18f-3 plan, requiring approximately 18.5 hours per response, and a total of 4,773 burden hours per year in the aggregate.⁶ Preparation of the rule 18f-3 plan may require 11 hours of the services of an attorney or accountant, at a cost of approximately \$130 per hour for professional time, and approval of the plan may require 1.5 hours of the attention of each of 5 directors, at a cost of approximately \$500 per hour per director. The staff therefore estimates that the aggregate annual cost of complying with the paperwork requirements of the rule is approximately \$1,336,440 ((11 hours × 1 professional × 258 responses × \$130) + (1.5 hours × 5 directors × 258 responses × \$500)).

The estimated annual burden of 4,773 hours represents an increase of 3,260.5 hours over the prior estimate of 1,512.5 hours. The increase in burden hours is attributable to more accurate estimates of the burden hours that reflect additional time spent by professionals and time spent by directors. The estimated number of multiple class funds has decreased, however, from 550 to 516.

Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 18f-3. Responses will not be kept confidential.

Rule 498 of the Securities Act of 1933 (17 CFR 230.498) permits open-end management investment companies (or a series of an investment company organized as a series company, which offers one or more series of shares representing interests in separate investment portfolios) ("funds") to provide investors with a "profile" that contains a summary of key information about a fund, including the fund's

investment objectives, strategies, risks and performance, and fees, in a standardized format. The profile provides investors the option of buying fund shares based on the information in the profile or reviewing the fund's prospectus before making an investment decision. Investors purchasing shares based on a profile receive the fund's prospectus prior to or with confirmation of their investment in the fund.

Consistent with the filing requirement of a fund's prospectus, a profile must be filed with the Commission 30 days before first use. Such a filing allows the Commission to review the profile for compliance with rule 498. Compliance with the rule's standardized format assists investors in evaluating and comparing funds.

It is estimated that approximately 16 initial profiles and 316 updated profiles are filed with the Commission annually. The Commission estimates that each profile contains on average 1.25 portfolios, resulting in 20 portfolios filed annually on initial profiles and 395 portfolios filed annually on updated profiles. The number of burden hours for preparing and filing an initial profile per portfolio is 25. The number of burden hours for preparing and filing an updated profile per portfolio is 10. The total burden hours for preparing and filing initial and updated profiles under rule 498 is 4,450, representing a decrease of 2,660 hours from the prior estimate of 7,110. The reduction in burden hours is attributable to the lower number of profiles actually prepared and filed as compared to the previous estimates.

The collection of information under rule 498 is voluntary. The information provided by rule 498 is not kept confidential.

Rule 34b-1 under the Investment Company Act (17 CFR 270.34b-1) governs sales material that accompanies or follows the delivery of a statutory prospectus ("sales literature"). Rule 34b-1 deems to be materially misleading any investment company sales literature, required to be filed with the Commission by section 24(b) of the Investment Company Act (15 U.S.C. 80a-24(b)),⁷ that includes performance data unless it also includes the

appropriate uniformly computed data and the legend disclosure required in advertisements by rule 482 under the Securities Act of 1933 (17 CFR 230.482). Requiring the inclusion of such standardized performance data in sales literature is designed to prevent misleading performance claims by funds and to enable investors to make meaningful comparisons among fund performance claims.

The Commission estimates that respondents file approximately 37,000 responses with the Commission, which include the information required by rule 34b-1. The burden from rule 34b-1 requires slightly more than 2.4 hours per response resulting from creating the information required under rule 34b-1.⁸ The total burden hours for rule 34b-1 is 89,143 per year in the aggregate (37,000 responses × 2.4092702 hours per response).

The collection of information under rule 34b-1 is mandatory. The information provided under rule 34b-1 is not kept confidential.

The estimates of average burden hours are made solely for the purposes of the Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. 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 OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 28, 2003.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03-2645 Filed 2-4-03; 8:45 am]

BILLING CODE 8010-01-P

⁵ This estimate is based on data from form N-SAR, the semi-annual report that funds file with the Commission.

⁶ The estimate reflects the assumption that each multiple class fund prepares and approves a rule 18f-3 plan every two years when issuing a new class or amending a plan (or that 258 of all 516 funds prepare and approve a plan each year). The estimate assumes that the time required to prepare a plan is 11 hours per plan (or 2,838 hours for 258 funds annually), and the time required to approve a plan is an additional 1.5 hours per director per plan (or 1,935 hours for 258 funds annually (assuming five directors per fund)).

⁷ Sales literature addressed to or intended for distribution to prospective investors shall be deemed filed with the Commission for purposes of section 24(b) of the Investment Company Act upon filing with a national securities association registered under section 15A of the Securities Exchange Act of 1934 that has adopted rules providing standards for the investment company advertising practices of its members and has established and implemented procedures to review that advertising. See rule 24b-3 under the Investment Company Act (17 CFR 270.24b-3).

⁸ The estimated burden per response is 2.9 hours for 686 responses and 2.4 hours for the remaining, giving a more exact weighted average burden per response of approximately 2.4092702.