

amendments to a currently approved collection titled "Rule 204-2," under OMB control number 3235-0278. The Commission also has submitted the amendments to this collection to the OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. 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.

The collection of information under rule 38a-1 is necessary to assure that investment companies maintain comprehensive internal programs that promote the companies' compliance with the federal securities laws. The respondents are investment companies registered with us and business development companies. Our staff, conducting the Commission's examination and oversight program, would use the information collected to assess funds' compliance programs. Responses provided to the Commission in the context of its examination and oversight program are generally kept confidential.⁸⁴ Rule 38a-1 requires that certain records be retained for at least five years.⁸⁵

The collection of information under rule 206(4)-7 is necessary to assure that investment advisers maintain comprehensive internal programs that promote the advisers' compliance with the Advisers Act. The respondents are investment advisers registered with us. Our staff, conducting the Commission's examination and oversight program, would use the information collected to assess investment advisers' compliance programs. Responses provided to the Commission in the context of its examination and oversight program are generally kept confidential.⁸⁶

The collection of information under rule 204-2 is necessary for the Commission staff to use in its examination and oversight program. The respondents are investment advisers registered with us. Responses provided to the Commission in the context of its examination and oversight program are generally kept confidential.⁸⁷ The records that an adviser must keep in accordance with the Proposed Rules must be retained for at least five years.⁸⁸

A. Rule 38a-1

There are currently approximately 5,030 registered investment companies and 53 business development companies.⁸⁹ Thus, approximately 5,083 funds would be subject to proposed rule 38a-1. We estimate that the average annual hour burden for a fund to document the policies and procedures that make up its compliance program would be 60 hours. While each fund would be required to maintain written policies and procedures under rule 38a-1, this average estimate takes into account that most funds are located within a fund complex. Based on our staff's experience in connection with our examination and oversight program, we expect that each fund in a complex would be able to draw extensively from the fund complex's "master" compliance program to assemble appropriate compliance policies and procedures. It also has been our experience that many fund complexes already have written policies and procedures documenting their compliance programs. Further, a fund needing to develop policies and procedures on one or more topics in order to achieve a comprehensive compliance program can draw on a number of outlines and model programs available from a variety of industry representatives, commentators, and organizations.

We also estimate that each fund would spend five hours annually, on average, documenting the conclusions of its annual compliance review for its board of directors. Finally, we estimate that each fund would spend 0.5 hours annually, on average, maintaining the records required by proposed rule 38a-1. In total, the collections of information under rule 38a-1 would entail 332,936.5 burden hours.⁹⁰

B. Rule 206(4)-7

There are currently approximately 7,790 investment advisers registered with us.⁹¹ We estimate that the average annual hour burden for each adviser to document the policies and procedures that make up its compliance program would be 80 hours, for a total burden of

623,200 hours.⁹² While each adviser registered with us would be subject to the requirement to maintain written policies and procedures under proposed rule 206(4)-7, this average estimate takes into account that many advisers would be the primary drafters of compliance policies and procedures for funds under proposed rule 38a-1. We expect that these advisers would be able to draw extensively from their fund compliance programs to supplement, as necessary, compliance policies and procedures for the advisory firm.

It also has been our staff's experience in connection with our examination and oversight program that approximately half of the investment advisers registered with us already have drafted procedures addressing many aspects of their compliance programs, and many investment advisers in this group have drafted comprehensive procedures. Further, while it has been our experience that a significant number of smaller registered investment advisers—who typically employ one or a few persons and have complete oversight of their business operations—have not adopted written policies and procedures, these advisers can draw on a number of outlines and model programs available from a variety of industry representatives, commentators, and organizations. Based on our experience, these smaller advisers are less likely to participate in arranging or effectuating securities transactions that they recommend to their clients, thereby greatly simplifying the scope of the policies and procedures they would be required to document under the proposed rule.

C. Rule 204-2

The currently-approved annual aggregate information collection burden under rule 204-2 is 1,625,638.5 hours. This approved annual aggregate burden was based on estimates that 7,687 advisers were subject to the rule, and each of these advisers spends an average of 211.48 hours preparing and preserving records in accordance with the rule. Based upon the most recently available data, there are 7,790 registered investment advisers. The increase in the number of registered investment advisers increases the total burden hours of current rule 204-2 from 1,625,638.5 to 1,647,429.2,⁹³ an increase of 21,790.7 hours.⁹⁴

⁹² 7,790 registered investment advisers × 80 annual average burden hours = 623,200 hours.

⁹³ 7,790 registered investment advisers × 211.48 hours = 1,647,429.2 hours.

⁹⁴ 1,647,429.2 hours—1,625,638.5 hours = 21,790.7 hours.

⁸⁴ See section 31(c) of the Investment Company Act [15 U.S.C. 80a-30(c)].

⁸⁵ See Proposed rule 38a-1(c).

⁸⁶ See section 210(b) of the Advisers Act [15 U.S.C. 80b-10(b)].

⁸⁷ *Id.*

⁸⁸ See proposed rule 204-2(a)(17)(i) and rule 204-2(e)(1) [17 CFR 275.204-2(e)(1)].

⁸⁹ These numbers are based on Commission filings and are current as of January 2003.

⁹⁰ (5,083 funds (5,030 registered investment companies + 53 business development companies)) × (60 hours for documenting compliance policies and procedures + 5 hours for documenting conclusions of annual compliance review + 0.5 hours for maintaining records) = 332,936.5 burden hours.

⁹¹ This is the number of investment advisers registered with us on our Investment Adviser Registration Depository System as of January 14, 2003.