

group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.<sup>43</sup> Approximately 145 investment companies registered on Form N-1A meet this definition.<sup>44</sup>

#### *D. Reporting, Recordkeeping, and Other Compliance Requirements*

The proposed amendments would require mutual funds that have front-end sales loads to provide several new prospectus disclosures regarding breakpoint discounts on these sales loads, as described above.

The Commission estimates some one-time formatting and ongoing costs and burdens that would be imposed on all mutual funds, including funds that are small entities. We note, however, that in many cases funds currently provide disclosure in their registration statements regarding breakpoint discounts. For purposes of the Paperwork Reduction Act, we have estimated that the proposed new disclosure requirements would increase the hour burden per portfolio per filing of an initial registration statement on Form N-1A by 2 hours and would increase the hour burden per portfolio per filing of a post-effective amendment to a registration statement by 1 hour. We estimate that this additional burden would increase total internal costs of filing an initial registration statement by \$91 per affected mutual fund portfolio annually, and would increase total internal costs of filing a post-effective amendment by \$45 per affected mutual fund portfolio annually.<sup>45</sup>

We expect the external costs of providing the new prospectus disclosure will be limited, because some funds currently provide some of this information in their registration statements, and we do not expect that the disclosure will add significant length to the prospectus. The Commission solicits comment on the effect the proposed amendments would have on small entities.

#### *E. Duplicative, Overlapping or Conflicting Federal Rules*

There are no rules that duplicate, overlap, or conflict with the proposed amendments.

#### *F. Significant Alternatives*

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small issuers. In connection with the proposed amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed amendments for small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the proposed amendments, or any part thereof, for small entities.

The Commission believes at the present time that special compliance or reporting requirements for small entities, or an exemption from coverage for small entities, would not be appropriate or consistent with investor protection. The proposed disclosure amendments would provide shareholders with greater transparency of breakpoint discounts on front-end sales loads. Different disclosure requirements for mutual funds that are small entities may create the risk that the shareholders in these funds would not be as able as investors in larger funds to assess the terms upon which breakpoint discounts in sales loads are offered. We believe it is important for the disclosure that would be required by the proposed amendments to be provided to shareholders by all mutual funds, not just funds that are not considered small entities.

We have endeavored through the proposed amendments to minimize the regulatory burden on all funds, including small entities, while meeting our regulatory objectives. Small entities should benefit from the Commission's reasoned approach to the proposed amendments to the same degree as other investment companies. Further clarification, consolidation, or simplification of the proposals for funds that are small entities would be inconsistent with the Commission's concern for investor protection. Finally, we do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context.

#### *G. Solicitation of Comments*

The Commission encourages the submission of written comments with

respect to any aspect of this analysis. Comment is specifically requested on the number of small entities that would be affected by the proposed amendments and the likely impact of the proposals on small entities. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. These comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves. Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically at the following E-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. S7-28-03; this file number should be included on the subject line if E-mail is used. All comments received will be posted on the Commission's Internet Web site (<http://www.sec.gov>) and made available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549-0102.<sup>46</sup>

#### **VIII. Consideration of Impact on the Economy**

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,<sup>47</sup> a rule is "major" if it results or is likely to result in:

- An annual effect on the economy of \$100 million or more;
  - A major increase in costs or prices for consumers or individual industries; or
  - Significant adverse effects on competition, investment, or innovation.
- The Commission requests comment on the potential impact of the proposed amendments on the U.S. economy on an annual basis. Commenters are requested to provide empirical data to support their views.

#### **IX. Statutory Authority**

The Commission is proposing amendments to Form N-1A pursuant to authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act (15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)) and sections 8, 24(a), 30, and 38 of the Investment Company Act (15 U.S.C. 80a-8, 80a-24(a), 80a-29, and 80a-37).

<sup>46</sup> We do not edit personal identifying information, such as names or electronic mail addresses, from electronic submissions. You should submit only information that you wish to make available publicly.

<sup>47</sup> Pub. L. 104-21, Title II, 110 Stat. 857 (1996).

<sup>43</sup> 17 CFR 270.0-10.

<sup>44</sup> This estimate is based on analysis by the Division of Investment Management staff of information from databases compiled by third-party information providers, including Morningstar, Inc., and Lipper.

<sup>45</sup> These figures are based on an estimated hourly wage rate of \$45.25. See *supra* note 41.