



8011-01P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 232, 239, 240, 243, 249, 270, and 274

[Release Nos. 33–10771; 34–88606; IC–33836; File No. S7–03–19]

RIN 3235–AM31

Securities Offering Reform for Closed-End Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the “Commission”) is adopting rules that will modify the registration, communications, and offering processes for business development companies (“BDCs”) and other closed-end investment companies under the Securities Act of 1933. As directed by Congress, we are adopting rules that will allow these investment companies to use the securities offering rules that are already available to operating companies. These rules will extend to closed-end investment companies offering reforms currently available to operating company issuers by expanding the definition of “well-known seasoned issuer” to allow these investment companies to qualify; streamlining the registration process for these investment companies, including the process for shelf registration; permitting these investment companies to satisfy their final prospectus delivery requirements by filing the prospectus with the Commission; and permitting additional communications by and about these investment companies during a registered public offering. In addition, we are amending certain rules and forms to tailor the disclosure and regulatory framework to these investment companies. These amendments also will modernize our approach to securities registration fee payment by requiring closed-end investment companies that operate as

“interval funds” to pay securities registration fees using the same method as mutual funds and exchange-traded funds and extend the ability to use this payment method to issuers of certain continuously offered, exchange-traded products (“ETPs”). Additionally, we are expanding the ability of certain registered closed-end funds or BDCs that conduct continuous offerings to make changes to their registration statements on an immediately effective basis or on an automatically effective basis a set period of time after filing. Lastly, we are adopting certain structured data reporting requirements, including for filings on the form providing annual notice of securities sold pursuant to the rule under the Investment Company Act of 1940 that prescribes the method by which certain investment companies (including mutual funds) calculate and pay registration fees.

DATES: *Effective Dates:* This rule is effective August 1, 2020, except for amendatory instructions 21, 22, 30, 31, 33, 34, 41, 42, and 45 which are effective August 1, 2021.

Compliance Dates: The applicable compliance dates are discussed below in section II.J.

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SUPPLEMENTARY INFORMATION: The Commission is adopting amendments

to:

Commission Reference	CFR Citation (17 CFR)
SECURITIES ACT OF 1933 ("SECURITIES ACT")¹	
Rule 134	§230.134
Rule 138	§230.138
Rule 156	§230.156
Rule 163	§230.163
Rule 163A	§230.163A
Rule 164	§230.164
Rule 168	§230.168
Rule 169	§230.169
Rule 172	§230.172
Rule 173	§230.173
Rule 405	§230.405
Rule 415	§230.415
Rule 418	§230.418
Rule 424	§230.424
Rule 430A	§230.430A
Rule 430B	§230.430B
Rule 433	§230.433
Rule 456	§230.456
Rule 457	§230.457
Rule 462	§230.462
Rule 486	§230.486
Rule 497	§230.497
Form S-1	§239.11
Form S-3	§239.13
Form N-14	§239.23
Form F-1	§239.31
Form F-3	§239.33
REGULATION S-T [17 CFR 232.10 THROUGH 232.903]	
Rule 11	§232.11
Rule 405	§232.405
SECURITIES EXCHANGE ACT OF 1934 ("EXCHANGE ACT")²	
Schedule 14A	§240.14a-101

¹ 15 U.S.C. 77a *et seq.*

² 15 U.S.C. 78a *et seq.*

Commission Reference	CFR Citation (17 CFR)
Rule 103 of Regulation FD	§243.103
INVESTMENT COMPANY ACT OF 1940 ("INVESTMENT COMPANY ACT")³	
Rule 8b-16	§270.8b-16
Rule 23c-3	§270.23c-3
Rule 24f-2	§270.24f-2
Form 24F-2	§274.24
SECURITIES ACT AND INVESTMENT COMPANY ACT	
Form N-2	§§239.14 and 274.11a-1
EXCHANGE ACT AND INVESTMENT COMPANY ACT	
Form N-CSR	§§249.331 and 274.128

³ 15 U.S.C. 80a-1 *et seq.*

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I. INTRODUCTION

We are adopting rules that will modify the registration, communications, and offering processes for business development companies (“BDCs”) and registered closed-end investment companies (“registered CEFs”), including interval funds (collectively, “affected funds”) under the Securities Act.⁴ In 2005, the Commission adopted securities offering reforms for operating companies to modernize the securities offering and communication processes while maintaining the protection of investors under the Securities Act.⁵ At that time, the Commission specifically excluded all investment companies—including affected funds—from the scope of the reforms.⁶ Now, as directed by Congress, we are adopting rules that will allow affected funds to use the securities offering rules that are already available to operating companies.

⁴ BDCs are a category of closed-end investment companies that do not register under the Investment Company Act, but rather elect to be subject to the provisions of sections 55 through 65 of the Investment Company Act. *See* section 2(a)(48) of the Investment Company Act [15 U.S.C. 80a-2(a)(48)]. Congress established BDCs for the purpose of making capital more readily available to small, developing and financially troubled companies that do not have ready access to the public capital markets or other forms of conventional financing. *See* H.R. Rep. No. 1341, 96th Cong., 2d Sess. 21 (1980). *See infra* section II.A for additional discussion of the definition of “affected funds.”

“Interval funds” are a type of registered CEF or BDC that make periodic repurchase offers pursuant to rule 23c-3 under the Investment Company Act. *See* 17 CFR 270.23c-3 (“rule 23c-3”).

⁵ Securities Offering Reform, Securities Act Release No. 8591 (July 19, 2005) [70 FR 44721 (Aug. 3, 2005)] (“Securities Offering Reform Adopting Release”). In this release we generally use the term “operating company” to refer to issuers that are not investment companies and that are currently eligible to rely on the rules we are amending.

⁶ *See, e.g., id.* at 44727 (discussing the exclusion of investment companies registered under the Investment Company Act and BDCs from the definition of “well-known seasoned issuer”); *id.* at 44735 (discussing the exclusion of such companies from the safe harbors for factual business information and forward-looking information); *id.* at 44784 (discussing the exclusion of such companies from final prospectus delivery reforms).

The Small Business Credit Availability Act (the “BDC Act”) directs us to allow a BDC to use the securities offering rules that are available to other issuers required to file reports under section 13(a) or section 15(d) of the Exchange Act.⁷ As discussed in detail below, the BDC Act identifies with specificity the required revisions.⁸ The Economic Growth, Regulatory Relief, and Consumer Protection Act (the “Registered CEF Act”) (and, together with the BDC Act, the “Acts”) directs us to adopt rules to allow any registered CEF that is listed on a national securities exchange (a “listed registered CEF”) or that makes periodic repurchase offers under rule 23c-3 to use the securities offering rules that are available to other issuers that are required to file reports under section 13(a) or section 15(d) of the Exchange Act, subject to appropriate conditions.⁹ Unlike the BDC Act, the Registered CEF Act does not identify with specificity the revisions that are required.

In 2019, we proposed rules that would modify the registration, communications, and offering processes for affected funds under the Securities Act.¹⁰ As discussed in

⁷ Section 803(b) of Small Business Credit Availability Act, Pub. L. 115–141, 132 Stat. 348 (2018) (“BDC Act”). This section also directs us to make specified revisions to allow a BDC to use the proxy rules that are available to such other issuers. *Id.* Affected funds generally use the proxy rules that are available to operating companies already. One current difference applicable to these entities, however, is a more limited ability to incorporate information into their proxy statements by reference. The BDC Act directs that we eliminate this difference by providing these entities parity with operating companies. Section 803(b)(2)(N) of the BDC Act; *see also infra* section II.G.2.

⁸ *See* section 803(b)(2) of the BDC Act.

⁹ Section 509(a) of Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. 115–174, 132 Stat. 1296 (2018) (“Registered CEF Act”). The Registered CEF Act also refers to proxy rules, as does the BDC Act. *See supra* footnote 7.

¹⁰ Securities Offering Reform for Closed-End Investment Companies, Investment Company Act Release No. 33427 (Mar. 20, 2019) [84 FR 14448 (Apr. 10, 2019)] (“Proposing Release”).

greater detail below, most commenters supported the proposal.¹¹ Many of the commenters who supported the proposal generally also recommended modifications to some of the proposed rules.¹² For example, some commenters recommended further expanding the scope of issuers that would qualify as “well-known seasoned issuers” to include smaller issuers or those without public float.¹³ Commenters also recommended eliminating or modifying the proposed requirement that certain additional affected funds file current reports on Form 8-K.¹⁴ Other commenters recommended that the Commission expand the scope of issuers permitted to file certain immediately effective registration statements.¹⁵ Several commenters that are sponsors to exchange-traded products recommended that the Commission expand the scope of issuers permitted to pay registration fees on an annual net basis.¹⁶ Finally, one commenter expressed concern with the proposal, recommending that large BDCs and registered CEFs be subject to

¹¹ See, e.g., Comment Letter of the Federal Regulation of Securities Committee of the Business Law Section of the American Bar Association (July 3, 2019) (“ABA Comment Letter”); Comment Letter of Alternative Credit Council (June 10, 2019) (“ACC Comment Letter”); Comment Letter of Coalition for Business Development (June 10, 2019) (“CBD Comment Letter”). The comment letters on the Proposing Release (File No. S7-03-19) are available at <https://www.sec.gov/comments/s7-03-19.htm>.

¹² See, e.g., Comment Letter of Calcbench, Inc. (May 13, 2019) (“Calcbench Comment Letter”); Comment Letter of GraniteShares LLC (June 26, 2019) (“GraniteShares Comment Letter”); Comment Letter of Institute for Portfolio Alternatives (June 10, 2019) (“IPA Comment Letter”).

¹³ See *infra* section II.C.

¹⁴ See *infra* section II.I.3.

¹⁵ See ABA Comment Letter; Comment Letter of Investment Company Institute (June 10, 2019) (“ICI Comment Letter”).

¹⁶ See, e.g., Comment Letter of United States Commodity Funds LLC (June 10, 2019) (“USCF Comment Letter”); Comment Letter of World Gold Council (June 10, 2019) (“WGC Comment Letter”).

additional scrutiny.¹⁷ As discussed in detail below, we are adopting the proposed rules with certain modifications, after consideration of comments received.

Our action will institute a number of reforms:

- First, it will streamline the registration process to allow eligible affected funds to use a short-form shelf registration statement to sell securities “off the shelf” more quickly and efficiently in response to market opportunities.
- Second, the final rule will allow affected funds to qualify as “well-known seasoned issuers” (“WKSIs”) under rule 405 under the Securities Act.
- Third, it will allow affected funds to satisfy final prospectus delivery requirements using the same method as operating companies.
- Fourth, it will allow affected funds to use certain rules currently available to operating companies, such as communications safe harbors for certain factual business information and forward-looking information, “free writing prospectuses,” and broker-dealer research reports (referred throughout this release as the “communications rules”).
- Fifth, the final rule will allow certain continuously-offered affected funds to make certain changes to their registration statements on an immediately-effective basis or on an automatically effective basis a set period of time after filing.
- Finally, it will tailor the disclosure and regulatory framework for affected funds in light of the amendments to the offering rules applicable to them. These amendments include structured data requirements to make it easier for investors

¹⁷ Comment Letter of Dale White (Apr. 3, 2019) (“White Comment Letter”).

and others to analyze fund data; new annual report disclosure requirements to provide key information in annual reports; a requirement that interval funds pay securities registration fees using the same method that mutual funds and exchange-traded funds (“ETFs”) use today; and a provision that will allow certain ETPs that are not registered under the Investment Company Act to elect to pay securities registration fees in the same manner.

As discussed in detail below, the final rule will affect different categories of affected funds differently, just as different categories of operating companies are treated differently under these rules currently. For example, some of the provisions will apply to all affected funds, that is, all BDCs and registered CEFs. Many of the provisions, however, will apply only to “seasoned funds.” These are listed affected funds that are current and timely in their reporting and therefore generally eligible to file a short-form registration statement under the proposal if they have at least \$75 million in “public float.”¹⁸ Some of the provisions will apply only to seasoned funds that also qualify as WKSIs, that is, listed affected funds that qualify as seasoned funds and generally have at least \$700 million in public float.¹⁹ Additionally, the final rule provides unlisted affected funds with the flexibility to make certain filings that become effective either immediately

¹⁸ See General Instruction I.B.1 of Form S-3 (defining “aggregate market value”). In this release, we use “public float” to mean the aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant. See General Instruction I.B.1 of Form S-3. Certain issuers with less than \$75 million in public float also are eligible to use Form S-3 to register a primary offering but are limited as to the amount of securities they can register. See General Instruction I.B.6 of Form S-3. The Commission has stated that the calculations of an issuer’s public float for the purpose of determining an issuer’s eligibility to use Form S-3 and for determining WKSI status under rule 405 are the same. See Securities Offering Reform Adopting Release, *supra* footnote 5, at n.50.

¹⁹ See rule 405 (defining WKSI).

upon filing or automatically after 60 days.²⁰ The final rule therefore will provide additional flexibilities to both listed and unlisted affected funds. Tables 1 and 2 below summarize these different impacts.

²⁰ See amended rules 486(a) and 486(b) under the Securities Act. See also *supra* section II.D.

TABLE 1

Entity	Summary Definition
Affected funds	Affected funds include all BDCs and registered CEFs, including interval funds.
Seasoned funds ¹	Seasoned funds are affected funds that are current and timely in their reporting and therefore generally eligible to file a short-form registration statement if they have at least \$75 million in “public float.” See <i>supra</i> footnote 18.
WKSIs	WKSIs are seasoned funds that generally have at least \$700 million in “public float.”
ETPs	ETPs are issuers that are not registered investment companies and whose assets consist primarily of commodities, currencies or derivative instruments that reference commodities or currencies; whose securities are listed for trading on a national securities exchange; and that purchase or redeem securities for a ratable share of their assets at NAV.

Notes:

1. Some of the rule changes that are shown below as affecting “seasoned funds” will only affect those seasoned funds that elect to file a registration statement on Form N-2 using an instruction permitting funds to use the form to file a short-form registration statement.

TABLE 2

Rule	Summary Description of Rule	Entities Affected by Changes	Discussed Below In
Affected Funds (Including BDCs, Registered CEFs, and Interval Funds)			
Registration Provisions			
General Instruction F.4.a of Form N-2	Requires online posting of information incorporated by reference.	Affected Funds	Section II.I.4
Securities Act Rules 424 and 497	Provide the processes for filing prospectus supplements.	Affected Funds	Section II.B.3.d
Investment Company Act Rule 23c-3	Subjects interval funds to the registration fee payment system based on annual net sales.	Interval Funds	Section II.H
Securities Act Rule 486	Allows continuously-offered unlisted affected funds to make certain filings that are immediately effective upon filing or automatically effective 60 days after filing.	Continuously-offered unlisted affected funds not relying on rule 23c-3	Section II.D

General Instruction G of Form N-14	Permits certain registrants to incorporate by reference.	BDCs	Section II.B.3.b
Communication Provisions			
Securities Act Rule 134	Permits issuers to publish factual information about the issuer or the offering, including “tombstone ads.”	Affected Funds	Section II.F.1
Securities Act Rule 163A	Permits issuers to communicate without risk of violating the gun-jumping provisions until 30 days prior to filing a registration statement.	Affected Funds	Section II.F.1
Securities Act Rules 168 and 169	Permit the publication and dissemination of regularly released factual and forward-looking information.	Affected Funds	Section II.F.1
Securities Act Rules 164 and 433	Permit use of a “free writing prospectus.”	Affected Funds	Section II.F.1
Prospectus Delivery Provisions			
Securities Act Rules 172 and 173	Permit issuers, brokers, and dealers to satisfy final prospectus delivery obligations if certain conditions are satisfied.	Affected Funds	Section II.E
Periodic Reporting Provisions			
Investment Company Act Rule 8b-16	A requirement that funds that rely on paragraph (b) of the rule describe in the annual report the fund’s current investment objectives, policies and risks, and certain key changes in enough detail to allow investors to understand each change and how it may affect the fund.	Registered CEFs	Section II.I.5
Instruction 4.g to Item 24 of Form N-2	A requirement for narrative disclosure about the fund’s performance in the fund’s annual report.	Registered CEFs	Section II.I.2.b
Item 4 of Form N-2; Instruction 10 to Item 24 of Form N-2	Requires disclosure of certain financial information.	BDCs	Section II.I.2.c
Structured Data Reporting Requirements			

Structured Financial Statement Data	A requirement that BDCs tag their financial statements using Inline eXtensible Business Reporting Language (“Inline XBRL”) format.	BDCs	Section II.I.1.a
Prospectus Structured Data Requirements	A requirement that registrants tag certain information required by Form N-2 using Inline XBRL.	Affected Funds	Sections II.I.1.b and II.I.1.c
Form 24F-2 Structured Format	A requirement that filings on Form 24F-2 be submitted in a structured format.	Form 24F-2 Filers, including open-end funds and unit investment trusts	Section II.I.1.d

Seasoned Funds

Registration Provisions

Securities Act Rule 415	Permits registration of securities to be offered on a delayed or a continuous basis.	Seasoned Funds	Section II.B.3
General Instructions A.2 and F.3 of Form N-2	Provide for backward and forward incorporation by reference.	Seasoned Funds	Section II.B.3.b
Securities Act Rule 430B	Permits certain issuers to omit certain information from their prospectuses at effectiveness.	Seasoned Funds	Section II.B.3.d
Securities Act Rule 418	Exempts some registrants from an obligation to furnish certain engineering, management, or similar reports.	Seasoned Funds	Section II.G.1
Regulation FD Rule 103	Provides that a failure to make a public disclosure required solely by 17 CFR 243.100 (rule 100 of Regulation FD) will not disqualify a “seasoned” issuer from use of certain forms.	Seasoned Funds	Section II.G.3

Communication Provisions

Securities Act Rule 138	Permits a broker or dealer to publish or distribute certain research reports about securities other than those it is distributing.	Seasoned Funds	Section II.F.2
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Proxy Statements

Item 13 of Schedule 14A	Permits certain registrants to use incorporation by reference to provide information that otherwise must be furnished with certain types of proxy statements.	Seasoned Funds	Section II.G.2
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Periodic Reporting Provisions

Instruction 4.h.(2) to Item 24 of Form N-2	A requirement for information about the investor's costs and expenses in the registrant's annual report.	Seasoned Funds	Section II.I.2.a
Instruction 4.h.(3) to Item 24 of Form N-2	A requirement for information about the share price of the registrant's stock and any premium or discount in the registrant's annual report.	Seasoned Funds	Section II.I.2.a
Instruction 4.h.(1) to Item 24 of Form N-2	A requirement for information about each of a fund's classes of senior securities in the registrant's annual report.	Seasoned Funds	Section II.I.2.a
Instruction 4.h.(4) to Item 24 of Form N-2	A requirement to disclose outstanding material unresolved staff comments that remain unresolved for a substantial period of time.	Seasoned Funds	Section II.I.2.d

WKSIs

Registration Provisions

Securities Act Rule 462	Provides for effectiveness of registration statements immediately upon filing with the Commission.	WKSIs	Section II.B.3.c
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Communication Provisions

Securities Act Rule 163	Permits oral and written communications by or on behalf of WKSIs at any time.	WKSIs	Section II.F.1
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ETPs

Registration Provisions

Securities Act Rules 415, 424, 456 and 457; Forms S-1, S-3, F-1 and F-3	Permits ETPs to register an indeterminate amount of certain securities and pay registration fees based on annual net sales.	ETPs	Section II.H
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II. DISCUSSION

A. Scope of Closed-End Investment Companies Affected by the Final Rule

As we proposed, the final rule will apply to all BDCs and registered CEFs, with certain conditions and exceptions discussed below and generally illustrated in Tables 1 and 2 above. The BDC Act applies to all BDCs, including BDCs that are listed on a securities exchange and those that are unlisted.²¹ In contrast, the Registered CEF Act extends to all registered CEFs listed on a securities exchange, as well as interval funds, but excludes other unlisted registered CEFs.²²

Although the Registered CEF Act only requires us to allow interval funds and listed registered CEFs to use the securities offering rules available to operating companies, that Act does not preclude us from exercising our discretion to extend these rules to all registered CEFs. The Commission therefore proposed to apply the rules to all BDCs and all registered CEFs, including unlisted registered CEFs, with certain conditions and exceptions.²³ We believed that this approach would benefit unlisted registered CEFs and their investors by avoiding the adverse consequences that could result from treating unlisted registered CEFs differently from all other registered CEFs and unlisted BDCs.

²¹ Listed BDCs are publicly traded BDCs that are listed on a stock exchange. Unlisted BDCs include non-traded BDCs, which are offered via a continuous offering up to a preset maximum amount, and private BDCs, which are offered via a private placement offering.

²² See section 509(a) of the Registered CEF Act. Similar to BDCs, registered CEFs include listed and unlisted funds, including publicly traded CEFs that are listed on a stock exchange, non-traded CEFs, and interval funds.

²³ Proposing Release, *supra* footnote 10, at section II.

We believed that applying such a distinction is unnecessary because, for purposes of these rules, unlisted registered CEFs are not distinguishable from unlisted BDCs, which the rule amendments must cover. Unlisted registered CEFs, like unlisted BDCs, also would benefit from parity of treatment.²⁴ We did not receive comment on this aspect of the proposal. Because we continue to believe that this approach will benefit unlisted registered CEFs and their investors by providing new investor protections and avoiding adverse consequences from differential treatment, the final rule will apply to all BDCs and registered CEFs as proposed.

The Commission proposed to generally apply the specific requirements of the BDC Act to both BDCs and registered CEFs because it believed that, except where dictated by meaningful differences between BDCs and registered CEFs, consistent application of the proposed rules across affected funds would result in more efficient offering processes and more consistent investor protections.²⁵ We continue to believe that both Acts share the overall purpose of providing offering and communication rule parity to the investment companies covered by each Act.²⁶ We did not receive public comment on this aspect of the proposal, and, for the reasons stated above, we are adopting it as proposed.

B. Registration Process

We are adopting, substantially as proposed, amendments to our rules and forms to streamline the registration process for affected funds by permitting them to use the more

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* (explaining the similarity of the BDC Act's and the Registered CEF Act's broad mandates).

flexible registration process available to operating companies. These amendments collectively will allow affected funds to offer and sell securities “off the shelf” more quickly and efficiently in response to market opportunities.

1. *Current Shelf Offering Process for Affected Funds*

Issuers, including affected funds, whose offerings are registered or qualified to be registered on Form S-3 may conduct primary offerings “off the shelf” under Securities Act rule 415(a)(1)(x), the provision for offerings made on a delayed or continuous basis.²⁷ In a rule 415(a)(1)(x) shelf offering, a seasoned issuer can register an unallocated dollar amount of securities for sale at a later time.²⁸ The issuer can then take down securities “off the shelf” for sale in a public offering as market conditions warrant. This allows seasoned issuers to quickly access the public securities markets from time to time to take advantage of favorable market conditions.²⁹

Affected funds currently can make shelf offerings under rule 415(a)(1)(x) if they meet the eligibility criteria for Form S-3, even though affected funds register their securities offerings on Form N-2.³⁰ Our rules for operating companies, however, are more flexible and efficient than for affected funds. In particular, seasoned operating companies

²⁷ See Proposing Release, *supra* footnote 10, at n.17 (discussing rule 415(a)(1)).

²⁸ In this release we use the term “seasoned” to refer generally to an issuer that meets the registrant requirements in General Instruction I.A of Form S-3 and, when referring to seasoned funds, a fund that meets these Form S-3 registrant requirements as well as certain modifications for registered CEFs. See Proposing Release, *supra* footnote 10, at n.18 (explaining the requirements under General Instruction I.A. of Form S-3).

²⁹ Issuers that rely on rule 415(a)(1)(x) must file a new registration statement every three years, with unsold securities and fees paid thereon carried forward to the new registration statement. See Securities Act rule 415(a)(5) and (6). If the new registration statement is an automatic shelf registration statement filed by a WKSI, it will be effective immediately upon filing.

³⁰ See Proposing Release, *supra* footnote 10, at n.20.

can use a short-form registration statement on Form S-3. Certain seasoned operating companies also can rely on Securities Act rule 430B to omit certain information from the “base” prospectus when the registration statement becomes effective and later provide that information in a subsequent Exchange Act report incorporated by reference, a prospectus supplement, or a post-effective amendment.³¹ The ability to “forward incorporate” information in Exchange Act reports filed *after* the registration statement becomes effective allows operating companies to efficiently update their prospectuses and access capital markets without the expense and delay of filing post-effective amendments in most cases.

Affected funds, on the other hand, currently have limited ability to incorporate information by reference into their registration statements and cannot forward incorporate information from subsequently-filed Exchange Act reports.³² When an affected fund sells securities, including as part of a takedown “off the shelf,” its registration statement must include all required information.³³ In particular, the affected fund’s registration statement must include current financial information, including any annual update required by section 10(a)(3) of the Securities Act.³⁴ Affected funds provide any section 10(a)(3) update to the registration statement by filing a post-effective amendment, which involves the expense and potential delay associated with the fund’s preparation of the amendment

³¹ The base prospectus of a shelf registration statement will generally describe in broad terms the types of securities and offerings that the issuer may conduct at some later time.

³² See Proposing Release, *supra* footnote 10, at n.22 (discussing “backward incorporation”).

³³ The fund’s registration statement must include all required information to avoid liability from selling securities from an out-of-date prospectus and to satisfy section 10(a) of the Securities Act. See *infra* footnotes 83–84 and accompanying text.

³⁴ See Proposing Release, *supra* footnote 10, at n.24.

and also provides our staff with time to review the amendment for compliance with the applicable disclosure and accounting requirements and to provide comments where appropriate.³⁵

Affected funds also cannot currently rely on rule 430B, which allows certain issuers to omit information from a prospectus, or the process that operating companies follow to file prospectus supplements.³⁶ In addition, affected funds cannot currently file automatic shelf registration statements because only WKSIs can file these registration statements. These differences can result in additional expense or delay for affected funds relative to operating companies and can affect the timing of an affected fund's capital raising.³⁷

2. *Amendments to the Registration Process for Affected Funds*

The amendments we are adopting are designed to streamline the registration process for affected funds in parity with operating companies. Specifically, and as discussed in more detail below, the amendments will permit affected funds to:

³⁵ These post-effective amendments become effective pursuant to section 8(c) of the Securities Act on such date as the Commission may determine and are typically declared effective by the staff acting pursuant to delegated authority. In contrast, Form S-3 is updated through the filing of an annual report on Form 10-K, which contains the issuer's audited financial statements for its most recently completed fiscal year. *See* Securities Offering Reform Adopting Release, *supra* footnote 5, at n.61; *see also* Proposing Release, *supra* footnote 10, at n.25.

³⁶ *See id.* at n.26.

³⁷ The final rule will give certain affected funds greater flexibility to control the timing of their capital raising. As discussed in the Proposing Release, section 23(b) of the Investment Company Act generally prohibits a registered CEF from issuing its shares at a price below the fund's current net asset value ("NAV") without shareholder approval (this provision applies to BDCs as well with certain modifications). *See id.* at n.27. Because the shares of affected funds often trade at a discount to NAV, by allowing certain affected funds to sell securities "off the shelf," the final rule will avoid potential delays associated with updating the funds' registration statements if they seek to access the markets when their shares are trading at a premium.

- File a short-form registration statement on Form N-2 that will function like a Form S-3 registration statement. An affected fund that files this short-form registration statement can use it to register shelf offerings, including shelf registration statements that are filed by affected funds that qualify as WKSIs and become effective automatically, and can satisfy Form N-2’s disclosure requirements by incorporating by reference information from the fund’s Exchange Act reports;
- Rely on rule 430B to omit information from their base prospectuses, and to use the process operating companies follow to file prospectus supplements; and
- Include additional information in periodic reports to update their registration statements.

Commenters generally supported our general approach to streamlining the registration process for affected funds. Commenters stated that the proposed amendments would allow affected funds to raise capital more efficiently and cost-effectively and would provide affected funds with greater flexibility to manage the timing of their offerings in response to market opportunities.³⁸ One commenter stated that affected funds will benefit from the proposed amendments because they no longer will have to file post-effective amendments to shelf registration statements to update their financial statements. Instead, that information will be in annual reports and incorporated by reference into their registration statements.³⁹

³⁸ See, e.g., ACC Comment Letter; ICI Comment Letter; Comment Letter of Securities Industry and Financial Markets Association (June 5, 2019) (“SIFMA Comment Letter”).

³⁹ See ICI Comment Letter.

3. *Short-Form Registration on Form N-2*

We are adopting, as proposed, new General Instruction A.2 in Form N-2, which will allow affected funds to file a short-form registration statement on Form N-2 that will function like a registration statement filed on Form S-3.⁴⁰ If a fund files a registration statement under this new instruction, the fund's registration statement will incorporate certain past and future Exchange Act reports by reference, allowing the fund to use a short-form registration statement and avoid the need to make post-effective amendments in most cases. An affected fund may use the new instruction to register a shelf offering under rule 415(a)(1)(x), and we are adopting conforming amendments to that rule to make this clear.⁴¹ The new instruction, however, is not limited to offerings under rule 415(a)(1)(x). Rather, an affected fund may use the new instruction to register any of the securities offerings that operating companies are permitted to register on Form S-3.⁴²

⁴⁰ Throughout this release, we refer to General Instruction A.2 as the “short-form registration instruction” and refer to funds relying on this instruction as filing a “short-form registration statement” on amended Form N-2. Some of the required amendments and the conditions in our current rules are available only to issuers that meet the eligibility and transaction requirements of Form S-3 and therefore are eligible to file a short-form registration statement on that form. The short-form registration instruction in Form N-2 is designed to facilitate these amendments, as directed in the BDC Act and the Registered CEF Act.

⁴¹ See amended rule 415(a)(1)(x) (conforming amendments for affected funds); *see also supra* section II.B.3.c.

⁴² See General Instruction I.B of Form S-3 (identifying transactions that can be registered on the form); *see also* General Instruction A.2.c of amended Form N-2. Form S-3, and therefore the short-form registration instruction, also is available to a majority-owned subsidiary that is a closed-end management investment company eligible to register a securities offering on Form N-2 if it meets certain conditions. See Proposing Release, *supra* footnote 10, at n.29 (describing the conditions necessary for majority-owned subsidiaries of closed-end management companies to register a securities offering on Form N-2).

a. *Eligibility to File a Short-Form Registration Statement*

As proposed, we are adopting amendments to permit an affected fund to file a short-form registration statement under the short-form registration instruction on Form N-2 if:

- for either a BDC or a registered CEF, the fund meets both the registrant requirements and the transaction requirements of Form S-3 (*i.e.*, the fund could register the offering on Form S-3 if it were an operating company);⁴³ and
- for registered CEFs only, the fund also has been registered under the Investment Company Act for at least 12 calendar months immediately preceding the filing of the registration statement and has timely filed all reports required to be filed under section 30 of the Investment Company Act during that time.⁴⁴

An affected fund generally will meet the registrant requirements of Form S-3 if it has timely filed all reports and other materials required under the Exchange Act during the prior year.⁴⁵ An affected fund will generally meet the transaction requirements of Form S-3 for a primary offering if the fund's public float is \$75 million or more.⁴⁶ Requiring affected funds to satisfy the requirements of Form S-3 in order to file a short-form registration statement provides parity between affected funds and operating

⁴³ See General Instructions A.2.a and A.2.c of amended Form N-2; General Instructions I.A (registrant requirements) and I.B (transaction requirements) of Form S-3.

⁴⁴ Under this amendment to Form N-2, the fund also must have timely filed all reports required to be filed under section 30 of the Investment Company Act during any portion of a month immediately preceding the filing of the registration statement. See new General Instruction A.2.b of amended Form N-2.

⁴⁵ See General Instruction I.A.3 of Form S-3.

⁴⁶ See General Instruction I.B of Form S-3.

companies, consistent with Congress’s mandates in the BDC Act and Registered CEF Act.

Commenters generally supported the proposal to permit affected funds to file short-form registration statements.⁴⁷ Several commenters, however, urged that we provide additional bases other than public float for an affected fund to be eligible to file a short-form registration statement (or to qualify as a WKSI).⁴⁸ While the arguments advanced by commenters apply to our proposed short-form registration requirement, commenters focused primarily on our proposed public float threshold for WKSI status.⁴⁹ Accordingly, we discuss these comments below in section II.C.2. For the reasons discussed in that section, we are not changing the public float requirement or adopting new requirements for affected funds to file a short-form registration statement. We are adopting the proposed \$75 million public float requirement for an affected fund to file a short-form registration statement on Form N-2 to provide affected funds parity with operating companies.

Certain affected funds, including most interval funds,⁵⁰ do not list their securities on an exchange and thus do not have public float. As a result, these affected funds generally would not be able to satisfy the transaction requirement necessary to file a

⁴⁷ See, e.g., SIFMA Comment Letter; Comment Letter of Mutual Fund Directors Forum (June 12, 2019) (“MFDF Comment Letter”).

⁴⁸ See, e.g., ICI Comment Letter; ABA Comment Letter.

⁴⁹ See *infra* section II.C.2 (discussing comments on public float requirement for WKSI eligibility).

⁵⁰ Only one interval fund is currently exchange-listed.

short-form registration statement.⁵¹ In addition, as we noted in the Proposing Release, because interval funds make continuous offerings, they (as well as other continuously offered, non-listed affected funds) would not be able to file a short-form registration statement that omits information required to be in an issuer's prospectus when it is offering its securities.⁵²

Interval funds also have their own offering provision, Securities Act rule 415(a)(1)(xi),⁵³ and post-effective amendments to their registration statements are immediately effective upon filing or automatically effective 60 days after filing under rule 486 under the Securities Act, depending on the substance of the amendments.⁵⁴ As a result, interval funds currently have a tailored registration process that, although different in certain respects from that of operating companies, may provide many of the same efficiencies, including the ability to raise capital as the opportunity arises. As discussed below in section II.D, we are adopting amendments to rule 486 to allow any affected fund that conducts continuous offerings under rule 415(a)(1)(ix), such as continuously-offered tender offer funds, to rely on rule 486. We believe these amendments will benefit such

⁵¹ We intend for the short-form registration instruction to provide affected funds parity with operating companies so that affected funds can register the same transactions as operating companies register on Form S-3. To register a primary offering of equity securities on Form S-3, an issuer must meet the applicable eligibility and registrant requirements. For example, an issuer with the requisite public float may register a primary offering of securities to be offered for cash. *See* General Instruction I.B.1 of Form S-3. Alternatively, an issuer may register a primary offering if it has common equity securities listed on an exchange, limits the amount sold over a twelve-month period to no more than one-third of the aggregate value of voting and non-voting common equity held by non-affiliates, and meets certain other requirements. *See* General Instruction I.B.6 of Form S-3. Interval funds that are not exchange-listed and without public float would not be qualified to register a primary offering of their shares on Form S-3.

⁵² *See* Proposing Release, *supra* footnote 10, at text following n.37.

⁵³ 17 CFR 230.415(a)(1)(xi).

⁵⁴ *See* 17 CFR 230.486.

continuously-offered affected funds by allowing them to maintain effective registration statements in a more efficient, cost-effective manner, similar to the benefits that the rules we are adopting will provide to affected funds that file short-form registration statements.

As proposed, in addition to satisfying the registrant requirements of Form S-3, a registered CEF also must have timely filed all reports required under section 30 of the Investment Company Act for the preceding 12 months in order to register an offering under the short-form registration instruction. A registered CEF therefore must have timely filed during the prior year all required Exchange Act reports, such as annual and semi-annual reports to shareholders filed with the Commission on Form N-CSR, as well as reports required only under section 30 of the Act, such as reports on Forms N-CEN and N-PORT.

As we stated in the Proposing Release, an issuer's Exchange Act filings provide the basic source of information to the market and to potential purchasers, and investors in the secondary market use that information in making their investment decisions.⁵⁵ Although all affected funds file reports under the Exchange Act, registered CEFs also file reports under the Investment Company Act. These Investment Company Act reports also provide important information to the market and investors, including information about an affected fund's portfolio holdings that will be publicly reported on a quarterly basis on Form N-PORT. We believe that the market will analyze this portfolio holdings information in a similar manner to how it analyzes financial statements for operating companies to determine changes in prospects for growth and performance. Portfolio holdings disclosure on Form N-PORT, for example, provides important information that

⁵⁵ See Proposing Release, *supra* footnote 10, at text accompanying nn.42–46.

is comparable to information BDCs include in Exchange Act reports for purposes of providing a quarterly flow of key information to the market. Moreover, requiring registered CEFs to have timely filed their Investment Company Act reports also will provide parity among BDCs, registered CEFs, and operating companies. This is because once Form N-PORT fully replaces Form N-Q, registered CEFs will only file Exchange Act reports semi-annually on Form N-CSR, whereas BDCs and operating companies file Exchange Act reports on Forms 10-K, 10-Q and 8-K.⁵⁶ As such, all issuers will be required to have filed their quarterly and other required reports in order to file a short-form registration statement.

We received one comment on this particular aspect of the proposal. This commenter expressed support for this aspect of the proposal, stating that it provides parity between registered CEFs and operating companies.⁵⁷

b. *Information Incorporated by Reference*

As proposed, the same rules on incorporation by reference that apply to Form S-3 registration statements also will apply to a short-form registration statement filed on Form N-2.⁵⁸ We did not receive comments on these amendments and are adopting them

⁵⁶ Because Form N-PORT will render reports on Form N-Q unnecessarily duplicative, once a registered fund begins filing reports on Form N-PORT, it will no longer be required to file reports on Form N-Q. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32936 (Dec. 8, 2017) [82 FR 58731 (Dec. 14, 2017)] (delaying the requirement for registered funds to submit reports on Form N-PORT through the EDGAR system until April 2019 for larger fund groups, and April 2020 for smaller fund groups). Form N-Q will be rescinded on May 1, 2020. *See id.*

⁵⁷ *See* Comment Letter of Teachers Insurance and Annuity Association of America (June 13, 2019) (“TIAA Comment Letter”).

⁵⁸ *See* section 803(c)(1) of the BDC Act (directing us to include an item or instruction that is similar to item 12 on Form S-3 to provide that a BDC that would otherwise meet the requirements of Form S-3 shall incorporate by reference the reports and documents filed by the BDC under the Exchange Act into the registration statement of the BDC filed on

as proposed. Specifically, an affected fund relying on the short-form registration instruction will be required to:

- Specifically incorporate by reference into the prospectus and statement of additional information (“SAI”): (1) its latest annual report filed pursuant to section 13(a) or section 15(d) of the Exchange Act that contains financial statements for the registrant’s latest fiscal year for which a Form N-CSR or Form 10-K was required to be filed; and (2) all other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report (backward incorporation by reference);⁵⁹ and
- State that all documents subsequently filed pursuant to section 13(a), 13(c), 14, or 15(d) of the Exchange Act prior to the termination of the offering shall be deemed to be incorporated by reference into the prospectus and SAI (forward incorporation by reference).⁶⁰

We also are adopting, as proposed, an instruction to Form N-2 that will permit an affected fund filing a short-form registration statement on Form N-2 to satisfy the disclosure requirements for its prospectus or SAI by incorporating the information by

Form N-2). We are amending General Instruction F.3 of current Form N-2 in its entirety and replacing it with a new General Instruction F.3. In these provisions and others that are substantively identical to parallel provisions in Form S-3, we have included conforming references to a fund’s SAI.

⁵⁹ See new General Instruction F.3.a.(1)–(2) of amended Form N-2; *cf.* Item 12(a)(1)–(2) of Form S-3. In addition, if sales of a class of capital stock are to be registered on Form N-2 and the same class is registered under section 12 of the Exchange Act, the affected fund must incorporate by reference the description of the class contained in the Exchange Act registration statement with respect to that class (including any amendment or reports filed for the purpose of updating such description). See new General Instruction F.3.a.(3) of amended Form N-2; *cf.* Item 12(a)(3) of Form S-3.

⁶⁰ See new General Instruction F.3.b of amended Form N-2; *cf.* Item 12(b) of Form S-3.

reference from Exchange Act reports.⁶¹ This provision, which is substantively identical to a parallel item in Form S-3, will give affected funds filing a short-form registration statement on Form N-2 the option to either provide required disclosure directly in the prospectus or SAI or to satisfy Form N-2's disclosure requirements with information incorporated by reference.⁶² We did not receive any comments on these particular amendments to Form N-2.

We also are adopting, as proposed, conforming changes to Form N-2's undertakings.⁶³ Form N-2 currently requires an undertaking that would prevent seasoned funds that file a short-form shelf registration statement from incorporating information by reference as proposed, because it requires funds to file post-effective amendments in

⁶¹ See new General Instruction F.3 of amended Form N-2. The amendments will permit a fund to use this incorporated information to provide the disclosure required by Items 3–12 and Items 16–24 of Form N-2. See new General Instruction F.3.c of amended Form N-2; *cf.* Item 12(d) of Form S-3.

⁶² The BDC Act directed us to extend this parallel item in Form S-3 (Item 12) to BDCs that meet Form S-3's requirements. See *supra* footnote 58; Item 12(d) of Form S-3; see also section 509(a) of the Registered CEF Act.

⁶³ See section 803(b)(2)(P) of the BDC Act (directing us to revise Item 34 of Form N-2 to require a BDC to provide undertakings “that are no more restrictive than the undertakings that are required of a registrant under [Item 512 of Regulation S-K],” which sets forth the undertakings an operating company must include in its registration statement for certain offerings).

Commenters suggested that the Item 34.1 undertaking to suspend an offering if a fund's NAV declines more than 10% from its NAV on its registration statement effective date until the fund amends the prospectus should not apply to continuous or delayed shelf offerings conducted by affected funds pursuant to proposed General Instruction A.2 of Form N-2. See Comment Letter of Dechert LLP (June 10, 2019) (“Dechert Comment Letter”); IPA Comment Letter; see also Item 34.1 of current Form N-2. Commenters urged that the undertaking should not apply in these circumstances because the shelf offering could extend over 3-1/2 years, and the undertaking did not seem necessary because the fund would amend its prospectus by incorporating by reference the information from its Exchange Act reports. See Dechert Comment Letter; IPA comment Letter. We agree, and are amending Item 34.1 to clarify that this undertaking is not applicable in the circumstance described by commenters. See Item 34.1 of amended Form N-2.

certain circumstances without providing an exception that would allow the required information to be supplied via incorporation by reference.⁶⁴ In contrast, operating companies registering an offering on Form S-3 are not required under the applicable undertaking to file post-effective amendments if the required information is included in an Exchange Act report incorporated by reference or a prospectus supplement that is part of the registration statement.⁶⁵ To implement the statutory mandates and provide parity for affected funds, we are adopting amendments to Form N-2's undertakings to provide the same approach for affected funds filing a short-form registration statement on that form that applies to operating companies that file on Form S-3.⁶⁶

⁶⁴ Form N-2 currently requires an affected fund registering an offering under rule 415 to undertake to file, during any period in which offers or sales are being made, a post-effective amendment to the registration statement under certain circumstances, including to provide any prospectus required by section 10(a)(3) of the Securities Act. *See* Item 34.4.a of current Form N-2.

⁶⁵ *See* 17 CFR 229.512(a)(1)(iii)(B) (Item 512(a)(1)(iii)(B) of Regulation S-K).

⁶⁶ Specifically, our amendments add a new provision to the relevant undertaking stating that the requirement to undertake to file a post-effective amendment does not apply if the registration statement is filed under the short-form registration instruction and the information required to be included in a post-effective amendment is contained in Exchange Act reports that are incorporated by reference into the fund's registration statement or is contained in a form of prospectus that is part of the registration statement. *See* Item 34.3.a of amended Form N-2; *cf.* Item 512(a) of Regulation S-K.

We also are amending Item 34 to make conforming changes to mirror parallel undertakings in Item 512 of Regulation S-K. *See, e.g.,* Item 34.3.a(2) of amended Form N-2; *cf.* Item 512(a)(1)(ii) of Regulation S-K; Item 34.3.d(1) of amended Form N-2; *cf.* Item 512(a)(5)(i) of Regulation S-K; Item 34.3.e(2)-(3) of amended Form N-2; *cf.* Item 512(a)(6)(ii)-(iii) of Regulation S-K; Item 34.5 of amended Form N-2; *cf.* Item 512(b) of Regulation S-K; and Item 34.6 of amended Form N-2; *cf.* Item 512(h) of Regulation S-K.

Additionally, in response to comments, we are eliminating the undertaking in Item 34.3 of current Form N-2, which requires affected funds to undertake to supplement the prospectus or file a post-effective amendment to disclose certain information if the securities being registered are to be offered to existing shareholders, and if not taken, to be reoffered to the public. *See* Dechert Comment Letter; IPA Comment. The Commission recently eliminated a parallel undertaking from Regulation S-K because other requirements make the undertaking duplicative and unnecessary. *See* FAST Act Modernization and Simplification of Regulation S-K, Investment Company Act Release

The Proposing Release requested comment on whether we should modify incorporation by reference provisions in other registration forms filed by affected funds to provide parity or consistency across registration statements. In particular, we asked if we should amend Form N-14 to provide that BDCs may incorporate by reference to the same extent as registered CEFs.⁶⁷ Commenters supported this approach,⁶⁸ which would provide for more consistent treatment between registered CEFs and BDCs.

We are modifying Form N-14 to allow BDCs to incorporate by reference to the same extent as registered CEFs. As commenters observed, this change will provide consistent treatment for BDCs and registered CEFs. This change also will reduce the length of a BDC's Form N-14 prospectus, which in some cases can exceed 1,000 pages, because BDCs cannot currently incorporate information by reference. To effectuate this change, we are amending the instruction in Form N-14 that governs incorporation by reference to specifically include BDCs and clarify that current reports include those filed pursuant to section 13(a) or 15(d) of the Exchange Act.⁶⁹ Additionally, in response to

No. 33426 (Mar. 20, 2019) [84 FR 12674 (Apr. 2, 2019)] (“FAST Act Modernization Adopting Release”), at n.171. We are eliminating this undertaking from Form N-2 for the same reasons, and renumbering Item 34's sub-items accordingly.

⁶⁷ Form N-14 currently permits a registered CEF—but not a BDC—to incorporate by reference certain information about the registrant and the company being acquired that is required by Items 5, 6 and 11–14 of Form N-14 from its prospectus, SAI, or Investment Company Act reports into the Form N-14 prospectus. *See* General Instruction G of current Form N-14.

⁶⁸ *See* Dechert Comment Letter; IPA Comment Letter.

⁶⁹ *See* General Instruction G of amended Form N-14. We also are eliminating the instruction's reference to sub-paragraph (d) of Section 30, and will instead reference Section 30 (no sub-part specified). This change will have the effect of requiring a Form N-14 registrant that seeks to incorporate by reference to be current in filing all Section 30 reports, including reports filed on Forms N-PORT and N-CEN. Commenters also suggested that we further amend Form N-14 to provide that a seasoned affected fund that incorporates by reference information about the registrant into the prospectus need not deliver copies of the documents containing such information with the prospectus. *See*,

comments,⁷⁰ we are eliminating the requirement that registrants file with the Form N-14 registration statement the documents that contain information that is incorporated by reference into the prospectus or SAI.⁷¹ Such documents are filed on EDGAR and readily available to Commission staff.

c. *Affected Funds' Use of Rule 415(a)(1)(x) and Automatic Shelf Registration Statements*⁷²

We are adopting, as proposed, two additional amendments to allow affected funds to use the shelf registration system in parity with operating companies. First, we are amending rule 415(a)(1)(x) to clarify that affected funds may use that rule by adding references to a registration statement filed under the short-form registration instruction.⁷³

e.g., Dechert Comment Letter. Because the delivery requirement applies to funds generally and not just affected funds, we believe that any changes to the requirement should be considered on a broader basis that is beyond the scope of this rulemaking.

⁷⁰ See Dechert Comment Letter; IPA Comment Letter.

⁷¹ See General Instruction G of amended Form N-14. The requirement to file with the registration statement the documents that contain the information that is incorporated by reference is no longer necessary given the availability of such documents on EDGAR. We are similarly eliminating the requirement to file with the registration statement each document from which information is incorporated by reference into the SAI.

⁷² As proposed, amended Form N-2 will become effective on August 1, 2020. The Commission also will need time to modify its systems to automatically reflect that automatic shelf registration statements are effective upon filing and process “pay-as-you-go” payments for affected funds that are WKSIs. See *infra* section II.J. Until such modifications are complete, which is anticipated to be September 2020, affected funds should contact the staff of the Division of Investment Management’s Disclosure Review and Accounting Office if they are filing an automatic shelf registration statement.

⁷³ See rule 415(a)(1)(x) (amended to include securities registered pursuant to General Instruction A.2 of Form N-2). See also section 803(b)(2)(J) of the BDC Act (directing us to revise rule 415(a)(1)(x) to provide that a BDC that would otherwise meet the eligibility requirements of Form S-3 can register its securities under that provision). Our amendments also add a reference to a Form N-2 registration statement filed pursuant to General Instruction A.2 to rule 415(a)(2) to make clear that affected funds registering offerings pursuant to rule 415(a)(1)(ix), like other issuers relying on that provision, will not be subject to the limitation that they register an amount of securities that the issuer reasonably expected would be offered or sold within two years from the date that the registration statement became effective. Cf. Securities Offering Reform Adopting Release, *supra* footnote 5, at 44774–44775.

Second, we are adopting a new general instruction to permit affected funds that qualify as WKSIs to file an automatic shelf registration statement.⁷⁴ A WKSI can register unspecified amounts of different types or classes of securities on an automatic shelf registration statement.⁷⁵ An automatic shelf registration statement and any amendments to the registration statement will be effective immediately upon filing.⁷⁶ Automatic shelf registration provides WKSIs with significant flexibility to take advantage of market windows, structure terms of securities on a real-time basis to accommodate investor demand, and determine or change the plan of distribution in response to changing market conditions. WKSIs using an automatic shelf registration statement further benefit by being able to pay filing fees at any time in advance of a shelf takedown or on a “pay-as-you-go” basis at the time of each takedown off the shelf registration statement in an amount calculated for that takedown.⁷⁷ Our amendments will extend these same benefits

⁷⁴ See General Instruction B of amended Form N-2; section 803(c)(2) of the BDC Act (directing that we amend Form N-2 to include an instruction that is similar to the instruction regarding automatic shelf registration offerings by WKSIs on Form S-3 to provide that a BDC that is a WKSI may file automatic shelf offerings on Form N-2). This instruction will provide that an affected fund that is a WKSI may use the form as an automatic shelf registration statement only for the transactions that are described in, and consistent with the requirements of, General Instruction I.D of Form S-3. This provides parity with operating companies because General Instruction I.D of Form S-3 specifies the transactions and requirements for an automatic shelf registration statement filed on Form S-3. Consistent with General Instruction I.D of Form S-3, General Instruction B specifies that the form could not be used as an automatic shelf registration statement for securities offerings under rule 415(a)(1)(vii) or (viii).

⁷⁵ See 17 CFR 230.430B(a) (Securities Act rule 430B(a)).

⁷⁶ See 17 CFR 230.462(e) and (f) (Securities Act rule 462(e) and (f)).

⁷⁷ See 17 CFR 230.457(r) and 17 CFR 230.456(b) (Securities Act rule 457(r) and rule 456(b)).

to affected funds that qualify as WKSIs, as directed by the BDC Act and the Registered CEF Act.⁷⁸ We did not receive any comments on these particular amendments.⁷⁹

d. *Omitting Information from a Base Prospectus and Prospectus Supplements*

The BDC Act directed us to include a process for a BDC to file a prospectus in the same manner as under rule 424(b).⁸⁰ Consistent with this directive and with the Registered CEF Act, we are amending, as proposed, rule 424(f) to allow affected funds to file a prospectus under rule 424.⁸¹ As discussed in the Proposing Release, affected funds registering shelf offerings under Securities Act rule 415 generally can omit required information from the base prospectus that is unknown or not reasonably available to the fund when the registration statement becomes effective.⁸² WKSIs and certain issuers eligible to use Form S-3 for primary offerings are permitted under rule 430B to omit certain additional information. A base prospectus that omits statutorily-required information is not a final prospectus under section 10(a) of the Securities Act.⁸³ Filing a

⁷⁸ As proposed, we are making conforming amendments to Securities Act rule 462(f) and to the registration fee table in Form N-2 to enhance consistency with Form S-3 and to allow affected funds that file as WKSIs to use the pay-as-you-go registration fee process. *See* section II.J for a discussion of applicable effective dates for pay-as-you-go registration fees.

⁷⁹ While we did not receive any comments specifically on the proposed general instruction to permit affected funds that qualify as WKSIs to file an automatic shelf registration statement, we did receive comments on the proposed WKSI standard for affected funds. Those comments are addressed in section II.C below.

⁸⁰ *See* section 803(b)(2)(K) of the BDC Act.

⁸¹ These amendments will not apply to open-end funds or other registered investment companies. Accordingly, those investment companies would continue to file prospectuses pursuant to rule 497. *See* amended rule 424(f). We also are amending rule 424(f) to state that references to the term “form of prospectus” in the rule include the SAI.

⁸² *See* 17 CFR 230.409 (Securities Act rule 409).

⁸³ 15 U.S.C. 77j(a).

prospectus supplement pursuant to rule 424 is one way to provide information required for a prospectus to satisfy the requirements of section 10(a).⁸⁴

Our rules, however, provide different processes for operating companies and investment companies to file prospectuses. Operating companies currently follow rule 424 to file prospectus supplements, whereas investment companies follow rule 497. Although these rules provide similar processes, they have certain key differences. For example, rule 424(b) is designed to work together with rule 415(a)(1)(x), and provides additional time for an issuer to file a prospectus. Rule 497 does not contain provisions specifically related to offerings under rule 415(a)(1)(x) and requires the fund to file a prospectus with the Commission before using it. Rule 424 also requires an issuer to file a prospectus when the issuer makes changes from or additions to a previously-filed prospectus that are substantive, whereas rule 497 requires funds to file every prospectus that varies from any previously-filed prospectus.

Under the amendment to rule 424(f), an affected fund will be able to file any type of prospectus enumerated in rule 424(b) to update, or to include information omitted from, a prospectus or in connection with a shelf takedown.⁸⁵ We also are amending rule 497 to provide that rule 424 would be the exclusive rule for affected funds to file a prospectus supplement other than an advertisement that is deemed to be a prospectus

⁸⁴ Omitted information also may be provided in a post-effective amendment or, where permitted, through Exchange Act filings that are incorporated by reference.

⁸⁵ An affected fund that seeks to file a rule 424(b)(1) or 424(b)(4) prospectus supplement to provide pricing information omitted pursuant to rule 430A must be able to satisfy the conditions of rule 430A, which include the requirement to furnish the “undertakings required by Item 512(i) of Regulation S-K.” *See* rule 430A(a)(2) under the Securities Act. To facilitate an affected fund’s ability to rely on the rule, we are amending rule 430A to require affected funds to provide the parallel undertaking required by Item 34.4 of amended Form N-2.

under 17 CFR 230.482 (rule 482).⁸⁶ This will avoid any confusion that might result if affected funds were permitted to file prospectuses under both rule 424 and rule 497, while also continuing to require affected funds to file rule 482 advertisements as they and other investment companies do today.

We also are adopting, as proposed, an amendment to permit affected funds to use rule 430B in parity with operating companies.⁸⁷ We received no comments on this aspect of the proposal. Thus an affected fund may omit certain information from its prospectus in two circumstances:

- A WKSI filing an automatic shelf registration statement may omit the plan of distribution and information as to whether the offering is a primary one or an offering on behalf of selling security holders.
- If an issuer is eligible to file a registration statement on Form S-3 to register a primary offering pursuant to General Instruction I.B.1 of Form S-3, and is registering the resale of securities on behalf of selling security holders, it may omit the identities of selling security holders and the amount of securities to be registered on their behalf, subject to certain conditions.⁸⁸

⁸⁶ See amended Securities Act rule 497(l).

⁸⁷ See Proposing Release, *supra* footnote 10, at text preceding n.72.

⁸⁸ See amended rule 430B (allowing affected funds eligible to register a primary offering under the short-form registration instruction to rely on rule 430B). We also are amending the undertakings in Form N-2 to require affected funds relying on rule 430B to make the same undertakings required of operating companies that rely on the rule. See Item 34.3.d(1) of amended Form N-2; *cf.* Item 512(a)(5)(i) of Regulation S-K. See also *supra* footnotes 63–66 and accompanying text. Rules 430B and 424 and 17 CFR 230.158 (rule 158) specify when information contained in a prospectus supplement will be deemed part of and included in the registration statement and circumstances that will trigger a new

e. *Additional Information in Periodic Reports*

As discussed above, the amendments we are adopting will permit certain affected funds to forward incorporate information from their Exchange Act reports. These funds may wish to include information in their periodic reports that is not required to be included in these reports in order to update their registration statements. We therefore proposed to include a new instruction to Form N-2 that would allow a fund to include additional information so as long as the fund included a statement in the report identifying information that it included for this purpose to provide context for investors.⁸⁹ After considering comments we received, we are not adopting this proposed instruction.

The commenters that addressed this proposed new instruction to Form N-2 recommended against requiring this identifying statement in periodic reports on the grounds that it unnecessarily emphasized information included to update the fund's registration statement and could potentially distract investors from other information that may be more material to their investment decisions.⁹⁰ These commenters also stated that requiring funds to identify this information would not be consistent with an integrated disclosure regime in which the information is incorporated by reference. We have determined not to adopt the identification requirement. After considering comments, we are persuaded that requiring an affected fund to highlight information just because it updates the fund's registration statement could unnecessarily emphasize it.

effective date of the registration statement for purposes of section 11(a) of the Securities Act. These rules apply to affected funds just as they apply to operating companies.

⁸⁹ See Proposing Release, *supra* footnote 10, at n.73 and accompanying text (discussing proposed Instruction 6.i to Item 24 of Form N-2).

⁹⁰ See Dechert Comment Letter; IPA Comment Letter.

C. Well-Known Seasoned Issuer Status

We are adopting, as proposed, amendments that will allow certain affected funds to qualify as WKSIs. Issuers that qualify as WKSIs are permitted to receive the greatest degree of benefits from the modifications to the communications and registration rules that the Commission adopted in 2005.⁹¹ A WKSI, for example, can file a registration statement or amendment that becomes effective automatically in a broader variety of contexts than a non-WKSI. In addition, subject to certain conditions, a WKSI may communicate at any time, including through a free writing prospectus, without violating the “gun-jumping” provisions of the Securities Act.⁹²

To qualify as a WKSI, the issuer must meet the registrant requirements of Form S-3, *i.e.*, it must be “seasoned”⁹³ and generally must have at least \$700 million in public float.⁹⁴ An issuer is not eligible for WKSI status if, among other bases: (1) it is not current and timely in its Exchange Act reports, or (2) it is the subject of a judicial or administrative decree or order arising out of a governmental action involving violations of the anti-fraud provisions of the Federal securities laws (the “anti-fraud prong” of the ineligible issuer definition).⁹⁵

⁹¹ Securities Offering Reform Adopting Release, *supra* footnote 5, at 44727.

⁹² *See infra* section II.F.

⁹³ *See supra* footnote 28.

⁹⁴ *See* paragraph (1)(i)(A) of the WKSI definition in rule 405. *See also supra* footnote 19. *See also* Proposing Release, *supra* footnote 10, at n.77 (identifying alternative bases for an issuer to qualify as a WKSI, including that an issuer may qualify if it has issued, for cash, within the last three years, at least \$1 billion in aggregate principal amount of non-convertible securities, other than common equity, in primary offerings registered under the Securities Act).

⁹⁵ *See* paragraphs (1)(i) and (vi) of the definition of ineligible issuer in Securities Act rule 405.

1. *WKSI Definition*

As proposed, we are amending rule 405 to delete the exclusion of affected funds from the definition of WKSI.⁹⁶ In addition, we are adopting, as proposed, an amendment to the WKSI definition to include a reference to the registrant requirements of the proposed short-form registration instruction on Form N-2.⁹⁷ We received no comments on our proposal to make these particular amendments to rule 405. Commenters generally supported permitting affected funds to qualify as WSIs.⁹⁸

2. *WKSI Eligibility*

The BDC Act directed us to amend Securities Act rule 405 to allow a BDC to qualify as a WKSI, and the Registered CEF Act directed us to allow a registered CEF covered by the Act to use the securities offering rules that are available to operating companies.⁹⁹ Consistent with these directives, and to provide parity in the offering rules for affected funds and operating companies, we are adopting, as proposed, amendments to allow affected funds to qualify as WSIs if they satisfy the same \$700 million public float requirement that applies to operating companies.

⁹⁶ See amended paragraph (1)(v) of rule 405.

⁹⁷ See amended paragraph (1)(i) of the WKSI definition in rule 405. In addition, we are adopting, as proposed, amendments to the definition of WKSI to make conforming references to a registration statement filed under new General Instruction A.2 of amended Form N-2. See paragraphs (1)(i) introductory text and (1)(i)(B)(2) of the definition of WKSI in amended rule 405; new General Instruction A.2 of amended Form N-2. We also are making a conforming amendment, as proposed, to paragraph (2) of the definition of WKSI to add a reference to Form N-CSR, the form on which registered CEFs file their shareholder reports with the Commission. See amendment to paragraph (2) of the definition of WKSI in amended rule 405. We did not receive any comments on our proposal to make these conforming amendments to the WKSI definition in rule 405.

⁹⁸ See, e.g., ICI Comment Letter; ACC Comment Letter; SIFMA Comment Letter; MFDF Comment Letter.

⁹⁹ See section 803(b)(2)(A)(i) of the BDC Act and section 509(a) of the Registered CEF Act.

Our securities offering rules provide WKSIs with certain registration and communication flexibilities because, among other reasons, they have a demonstrated market following (*i.e.*, they are “well-known”).¹⁰⁰ The Commission has used public float as an approximate measure of an issuer’s market following and the extent to which the market absorbs information about the issuer that is ultimately reflected in the price of the issuer’s securities.¹⁰¹ The \$700 million public float requirement is meant to encompass issuers that are presumptively the most widely followed in the marketplace and whose disclosures and other communications therefore are subject to market scrutiny by investors, the financial press, analysts, and others.¹⁰²

Although the comments we received generally supported permitting affected funds to qualify as WKSIs, commenters also suggested specific modifications to the proposed amendments to permit certain additional affected funds to qualify. Several commenters recommended that we eliminate the public float requirement for affected

¹⁰⁰ See Securities Offering Reform Adopting Release, *supra* footnote 5, at n.49 and accompanying text. In establishing the WKSI category of issuers for operating companies, the Commission stated that issuers that meet the \$700 million public float threshold or the alternative \$1 billion registered offering of non-convertible securities threshold have a wide following by market participants, the media, and institutional investors. See *id.* at section II.A.

¹⁰¹ See, *e.g.*, *id.* at n.50 (stating that the determination of public float is based on a public trading market, such as an exchange or certain over-the-counter markets). See also Shelf Registration, Securities Act Release No. 6499, at 5 (Nov. 17, 1983) [48 FR 52889] (“Forms S-3 and F-3 recognize the applicability of the efficient market theory to those companies which provide a steady stream of high quality corporate information to the marketplace and whose corporate information is broadly disseminated. Information about these companies is constantly digested and synthesized by financial analysts, who act as essential conduits in the continuous flow of information to investors, and is broadly disseminated on a timely basis by the financial press and other participants in the marketplace.”); see also Covered Investment Fund Research Reports, Investment Company Act Release No. 33311 (Nov. 30, 2018) [83 FR 64180 (Dec. 13, 2018)] (“Covered Investment Fund Research Reports Adopting Release”).

¹⁰² See Securities Offering Reform Adopting Release, *supra* footnote 5, at text accompanying n.40.

funds.¹⁰³ Other commenters recommended that we adopt a substantially lower public float threshold for affected funds, among other reasons, to make WKSI status available to a greater percentage of affected funds that have listed securities.¹⁰⁴ One such commenter offered a specific suggestion: that we reduce the public float threshold for affected funds from \$700 million to \$480 million.¹⁰⁵ This commenter stated that the \$700 million public float requirement adopted in 2005 for operating companies permitted approximately 30% of operating companies to qualify as WKSIs, and stated that we should seek to achieve a similar 30% “target” by adopting a \$480 million public float requirement for affected funds.

As the basis for the recommended elimination of or modification to the \$700 million public float requirement for affected funds, these commenters stated that while affected funds may not have the same level of market following as operating companies with the requisite public float, market following is a less relevant standard for affected funds than it is for operating companies. These commenters suggested that certain

¹⁰³ See ICI Comment Letter (suggesting that we permit affected funds to qualify as WKSIs solely based on the other proposed requirements for WKSI status, such as meeting other registrant and transaction requirements of Form S-3); *see also* Comment Letter of Invesco Ltd. (June 10, 2019) (“Invesco Comment Letter”) (same). *See also* TIAA Comment Letter (recommending that we eliminate the public float requirement and adopt a standard for WKSI qualification for registered CEFs based on whether certain information about the fund is available to the public, such as information about the fund’s holdings, total return performance, and daily NAV).

¹⁰⁴ *See* ABA Comment Letter. *See also* TIAA Comment Letter (recommending that we adopt a \$480 million public float requirement for registered CEFs in order to permit approximately 30% of registered CEFs to qualify as WKSIs, which would be consistent with the percentage of operating companies that were permitted to qualify as WKSIs under the Commission’s 2005 securities offering reforms).

¹⁰⁵ *See* TIAA Comment Letter (recommending that we reduce the public float threshold to \$480 million as an alternative to its recommendation that we eliminate the public float requirement for affected funds). *See supra* footnote 103.

distinguishing characteristics of affected funds compensate for their relative lack of market following and corresponding market scrutiny. For example, commenters stated that affected funds, as pass-through investment vehicles, have a less complex business than traditional operating companies, and thus require less market scrutiny.¹⁰⁶

Commenters also stated that market scrutiny is less relevant for affected funds because, unlike operating companies, affected funds must satisfy the investor protection requirements of the Investment Company Act and related Commission rules, including requirements relating to financial transparency, valuation of portfolio securities, transactions with affiliates, and board oversight, among others.¹⁰⁷

Similarly, on the basis that public float is not a suitable criterion for determining WKSI status for affected funds, commenters also urged that we permit unlisted affected funds (which do not have public float) to qualify for WKSI status on the basis of their aggregate NAVs.¹⁰⁸ In addition to the reasons provided by commenters, discussed above,

¹⁰⁶ See, e.g., ICI Comment Letter; see also ABA Comment Letter (stating that, unlike operating companies, affected funds “generally describe their operations in terms of a stated investment objective and investment strategies that tend to remain constant over time”). The ABA Comment Letter further asserted that the proposed \$700 million public float requirement would be burdensome for affected funds relative to operating companies because, unlike operating companies, affected funds have a relatively fixed asset base (and therefore a relatively fixed public float) that would be unlikely to increase over time to a level that would satisfy the public float requirement.

¹⁰⁷ See, e.g., ABA Comment Letter (stating that the “operating limitations, oversight requirements and investor protection provisions” that apply to affected funds under the Investment Company Act “more than compensate for Affected Funds’ lower level of research analyst coverage relative to large operating companies”); ICI Comment Letter (stating that affected funds “are subject to important requirements under the Investment Company Act, including valuing their investments under board-approved valuation procedures and ongoing board oversight”); TIAA Comment Letter (stating that market following is less relevant to affected funds because, among other reasons, they are subject to “the valuation framework of the 1940 Act”).

¹⁰⁸ See, e.g., ABA Comment Letter; Dechert Comment Letter; ICI Comment Letter.

for eliminating or modifying the public float requirement,¹⁰⁹ these commenters stated that the intermediaries and distribution platforms through which unlisted affected funds are sold perform extensive due diligence on unlisted affected funds, resulting in these funds being subject to scrutiny “equal” to the market scrutiny indicated by a large public float.¹¹⁰ Commenters also stated that technological advancements have made unlisted affected funds’ financial disclosures directly accessible to investors, and that, particularly in light of the extensive disclosure funds provide, investors are less dependent on market analysts for financial information.¹¹¹

After considering these comments, we are adopting, as proposed, WKSI requirements for affected funds that are in parity with the requirements for operating companies. We are not eliminating or modifying the \$700 million public float requirement for affected funds, or permitting affected funds to qualify as WKSIs based on their aggregate NAVs. Our amendments will implement the BDC Act and Registered CEF Act, and are designed to provide parity in the offering rules for affected funds and operating companies.

As discussed above, commenters stated that there are certain distinctions between affected funds and operating companies that suggest that the \$700 million public float requirement is not an appropriate criterion for determining WKSI status for affected

¹⁰⁹ Similar to the comments discussed above recommending that we eliminate or reduce the \$700 million public float requirement, these commenters stated, among other things, that unlisted affected funds are subject to the Investment Company Act’s investor protection, board oversight, and disclosure requirements, and that unlisted affected funds are structurally and operationally less complex than operating companies. *See supra* footnotes 106–107 and accompanying text.

¹¹⁰ *See* Dechert Comment Letter; ABA Comment Letter.

¹¹¹ *See, e.g.,* Dechert Comment Letter. *See* section 509(a) of the Registered CEF Act.

funds. For example, commenters noted that affected funds generally have less complex businesses than operating companies, are subject to the requirements of the Investment Company Act, and provide extensive financial information to the market. We agree with commenters that the WKSI framework, which the Commission designed specifically for operating companies, is not well-tailored to the specific characteristics of affected funds. However, these rules are designed to provide WKSI status to issuers with a demonstrated market following, and the Commission has for many years used public float, based on a public trading market, as an approximate measure of a stock's market following and, consequently, the degree of efficiency with which the market absorbs information and reflects it in the price of a security.¹¹² Moreover, the offering rules for operating companies, which Congress specifically directed the Commission to extend to certain affected funds, are not premised on the characteristics of specific types of issuers, such as whether an issuer's business is less complex than other issuers' businesses or whether an issuer is subject to different regulatory requirements. Further, the market following for closed-end funds is significantly less robust than is the case for operating companies. As a result, in our view, it would not be appropriate to select a public float figure that is below the figure used to determine WKSI status for operating companies.

We also are not persuaded by commenters that allowing an affected fund, including an unlisted affected fund, to qualify on the basis of its aggregate NAV would

¹¹² See Revisions to the Eligibility Requirements for Primary Securities Offerings on Forms S-3 and F-3, Securities Act Release No. 8878 (Dec. 19, 2007) [72 FR 73534 (Dec. 27, 2007)], at text accompanying n.25; See also Securities Offering Reform Adopting Release, *supra* footnote 5, at text accompanying n.52 (“High levels of analyst coverage, institutional ownership, and trading volume are useful indicators of the scrutiny that an issuer receives from the market, although no one statistic can fully capture the extent to which an issuer is followed by the market.”).

be consistent with the requirements for an issuer to qualify as a WKSI, which Congress directed us to extend to affected funds.¹¹³ In addition, permitting unlisted affected funds to qualify as WKSIs based on their aggregate NAVs would result in disparate treatment between unlisted affected funds and similarly situated operating companies under these rules. For example, unlisted real estate investment trusts (“unlisted REITs”) do not have a public float and therefore generally cannot qualify as WKSIs under the rules for operating companies. Unlisted REITs, however, have many of the characteristics that commenters cited in support of permitting unlisted affected funds to use their aggregate NAVs to qualify as WKSIs.¹¹⁴ Nonetheless, unlisted REITs and other unlisted operating companies may not qualify as WKSIs unless they have the requisite public float or satisfy one of the alternative bases (which we also are adopting for affected funds).

¹¹³ As discussed above, the Registered CEF Act, as enacted, requires us to allow only interval funds and listed registered CEFs to use the securities offering rules available to operating companies *See supra* section II.A. To provide parity of treatment for similarly situated affected funds, we are exercising our discretion to extend certain of these rules to unlisted registered CEFs that are not interval funds. We do not believe, however, that it would be consistent with the Registered CEF Act to provide these unlisted registered CEFs with new criteria for qualifying as WKSIs. Indeed, legislative language that preceded the passage of the Registered CEF Act would have applied to all registered closed-end investment companies, but the legislation enacted as the Registered CEF Act was subsequently narrowed in scope to apply only to listed closed-end funds and interval funds. *Compare* the Financial CHOICE Act of 2017, H.R. 10, 115th Cong. section 499A(a) (June 8, 2017) (directing us to revise rules to the extent necessary to allow a closed-end company, as defined in section 5(a)(2) of the Investment Company Act, that is registered as an investment company under the Act to use the securities offering and proxy rules that are available to other issuers that are required to file reports under section 13(a) or section 15(d) of the Exchange Act) *with* section 509(a) of Registered CEF Act. *See also* 163 Cong. Rec. H4791, H4792 (2017) (daily ed. June 8, 2017) (statement of Rep. Ellison) (stating that the prior bill would “allow even illiquid, nontraded funds to claim multiple exemptions,” making it “harder for the ... Commission ... to police these products for investors”).

¹¹⁴ For example, both unlisted REITs and unlisted affected funds sell their shares through intermediaries and both types of entities’ financial disclosures have been made directly accessible to investors through advances in technology.

Moreover, many of the distinctions between affected funds and operating companies that commenters raised are based on the characteristics of registered funds and BDCs generally, and are not unique to affected funds. We believe that the particular characteristics of registered funds, including affected funds, may be appropriate for the Commission to examine as part of a more comprehensive consideration of whether the securities offering rules for funds should be modified rather than in this rulemaking related to affected funds specifically.¹¹⁵

We do not agree with the commenters who stated that changing or eliminating the WKSI requirements for affected funds would be consistent with the intent of the Acts. We do not believe, as commenters suggested, that the BDC Act and Registered CEF Act were designed to result in a higher percentage of affected funds qualifying for WKSI status.¹¹⁶ Rather, as discussed above, the Acts directed us to extend to affected funds the benefits of our securities offering rules that are available to operating companies. We believe that designing specific WKSI requirements for affected funds to permit a particular percentage of those funds to qualify as WKSIs would not provide parity of treatment. Moreover, the \$700 million public float requirement for operating companies

¹¹⁵ As discussed at *infra* section III.A.1, affected funds represent approximately 5.1% of all registered investment companies by number of funds and approximately 2% by assets. In addition, as discussed at *infra* section III.D, we believe that providing affected funds with specific WKSI-eligibility criteria would not provide affected funds parity with similarly-situated operating companies that do not have public float or do not meet the \$700 million public float requirement and thus cannot qualify as WKSIs under the rules for operating companies.

¹¹⁶ *See, e.g.*, Invesco Comment Letter (stating that the percentage of listed BDCs and registered CEFs that would meet the \$700 million public float requirement, as set forth in the proposing release, were lower percentages than the Acts were designed to permit (citing Proposing Release, *supra* footnote 10, at section IV.A.1.); ABA Comment Letter (same); Dechert Comment Letter (stating that a goal of the BDC Act was to improve the flow of funds to middle-market companies, which would be furthered by permitting unlisted funds to qualify as WKSIs based on their aggregate NAVs).

was not designed to result in a certain percentage of operating companies qualifying as WKSIs, as suggested by the commenter who recommended that the public float requirement for affected funds be lowered to \$480 million.¹¹⁷ In describing the \$700 million public float threshold for operating companies, the Commission observed that the threshold would make the WKSI provisions available to approximately 30% of listed issuers, but this was describing the effect of the provision and not its intent.¹¹⁸

We also do not agree with commenters that the Registered CEF Act, by referring to interval funds, requires us to permit affected funds to qualify as WKSIs based on criteria other than the criteria that apply to operating companies.¹¹⁹ The Registered CEF Act directed us to allow interval funds (in addition to listed CEFs) to use the securities offering rules that are available to other issuers required to file reports under section 13 or 15(d) of the Exchange Act.¹²⁰ As discussed throughout this release and summarized in Tables 1 and 2 above, the rules that we are amending in this release are available to all affected funds, including interval funds, that satisfy the relevant conditions of those rules. In addition, many of the rules we are amending are not conditioned on an issuer's public float, such as the amendments to permit affected funds to use the "access equals delivery" prospectus delivery framework available to operating companies.

¹¹⁷ See TIAA Comment Letter.

¹¹⁸ See Securities Offering Reform Adopting Release, *supra* footnote 5, at text following n.48.

¹¹⁹ See, e.g., ICI Comment Letter (stating that the Registered CEF Act effectively requires the Commission to proceed without a public float standard to enable interval funds to qualify as seasoned funds and WKSI funds); Dechert Comment Letter (stating that adoption of a public float requirement for affected funds effectively would frustrate the intent of the Registered CEF Act).

¹²⁰ See section 509(a) of the Registered CEF Act.

We are adopting certain targeted amendments to permit certain non-interval affected funds to rely on rule 486 under the Securities Act. Unlike the WKSII requirements, rule 486 is specifically designed to apply to funds. These amendments to rule 486 will permit certain registered CEFs and BDCs that conduct continuous offerings—regardless of whether they qualify as WKSIIIs—to file post-effective amendments and certain registration statements that become either effective immediately upon filing under rule 486(b) or automatically effective after 60 days under rule 486(a).¹²¹ Similar to the benefits the final rule will provide to affected funds that qualify as WKSIIIs or that are eligible to file short-form registration statements, these amendments will facilitate certain unlisted affected funds’ ability to raise capital without delay by allowing the funds to more efficiently maintain effective registration statements while they engage in continuous offerings. The final rule, therefore, will provide certain listed affected funds with the flexibility to use a short-form registration statement and to file registration statements and amendments that become effective automatically. Additionally, unlisted affected funds generally will have the flexibility to make filings that become effective either immediately upon filing or automatically after 60 days. Thus the final rule will provide additional flexibilities to both listed and unlisted affected funds.

3. *Ineligible Issuer Definition*

We are adopting, as proposed, amendments to the definition of ineligible issuer in rule 405. Although all of the provisions in the ineligible issuer definition would apply to

¹²¹ See *infra* section II.D (discussing the Commission’s request for comment on broadening rule 486(b) in the Proposing Release and comments received in response to this request, as well as the amendments we are adopting to rule 486).

affected funds, our amendments are designed to tailor certain of these provisions for affected funds specifically. First, we are amending the definition of “ineligible issuer” to provide that a registered CEF would be ineligible if it has failed to file all reports and materials required to be filed under section 30 of the Investment Company Act during the preceding 12 months. This provision is consistent with the proposed short-form registration instruction and would mirror the current Exchange Act reporting provision in the ineligible issuer definition.¹²² We did not receive any comments on this particular proposed amendment.

Second, we are adopting, as proposed, an amendment to the definition of ineligible issuer to give effect to the definition’s anti-fraud prong in the context of affected funds. Specifically, we are adopting a parallel anti-fraud prong for affected funds, which provides that an affected fund is an ineligible issuer if within the past three years its investment adviser, including any sub-adviser, was the subject of any judicial or administrative decree or order arising out of a governmental action that determines the investment adviser aided or abetted or caused the affected fund to have violated the anti-fraud provisions of the Federal securities laws.¹²³ We believe this amendment is appropriate because investment companies typically are externally managed by an investment adviser, which is primarily responsible for the day-to-day management of the fund and the preparation of the fund’s disclosures.¹²⁴

¹²² See amended paragraph (1)(i) of the ineligible issuer definition in rule 405.

¹²³ See amended paragraph (1)(ix) of the ineligible issuer definition in rule 405.

¹²⁴ See Proposing Release, *supra* footnote 10, at text following n.84.

We received several comments requesting that we clarify or modify certain aspects of the proposed amendments. Commenters suggested that we clarify that a violation of section 206(4) of the Advisers Act, or the rules adopted under section 206(4) (except for 17 CFR 275.206(4)-8 (rule 206(4)-8)), by an affected fund's investment adviser or sub-adviser would not give rise to WKSI ineligibility for the affected fund.¹²⁵ These commenters also recommended that we modify the proposed anti-fraud provision so that an affected fund would not be an ineligible issuer if the investment adviser (or sub-adviser) that was the subject of a judicial or administrative decree or order as described in the proposed rule no longer advises the affected fund at the time the affected fund seeks WKSI status.¹²⁶

Under the anti-fraud prong for affected funds, an affected fund is ineligible for WKSI status if the affected fund's adviser or sub-adviser is determined to have aided or abetted or caused a violation by the fund of the anti-fraud provisions of the Federal securities laws. As such, only the anti-fraud provisions of the securities laws that apply to the affected fund itself can give rise to WKSI ineligibility. There could not be a violation of section 206(4) or the rules adopted thereunder by an affected fund, because the fund is not itself an adviser.

We also do not believe it would be appropriate, as commenters suggested, to modify the proposed amendments to permit an affected fund whose adviser or sub-adviser was determined to have aided or abetted or caused a violation by the fund of the anti-fraud provisions of the securities laws to preserve its WKSI eligibility by terminating

¹²⁵ See ACC Comment Letter; CBD Comment Letter.

¹²⁶ *Id.*

the adviser or sub-adviser.¹²⁷ An operating company currently will be an ineligible issuer under the anti-fraud prong even if the operating company terminates all of the employees who aided or abetted the underlying violation of the Federal securities laws, and our amendments will provide comparable treatment if an affected fund were to terminate its adviser. The affected fund also may have the same board of directors that was in place when the affected fund violated the anti-fraud provisions. The specific facts and circumstances relating to a particular issuer's WKSI status under the ineligible issuer definition may, however, be considered through the Commission's process under rule 405 for granting waivers of ineligible issuer status.¹²⁸

For these reasons, we are adopting the amendments to the ineligible issuer definition as proposed.

D. Automatic or Immediate Effectiveness for Filings by Affected Funds Conducting Certain Continuous Offerings

Based on comments that we received, we are expanding the scope of rule 486 to permit any registered CEF or BDC that conducts continuous offerings under rule 415(a)(1)(ix) (*e.g.*, a continuously-offered tender offer fund) to rely on the rule. Rule 486 under the Securities Act currently permits interval funds to file post-effective amendments and certain registration statements that are either immediately effective upon

¹²⁷ See ACC Comment Letter; CBD Comment Letter;

¹²⁸ See paragraph (2) of the ineligible issuer definition in rule 405 (providing that the Commission may grant waivers of ineligible issuer status upon a good-cause showing that it is not necessary under the circumstances for the issuer to be considered an ineligible issuer).

filing under rule 486(b) or automatically effective 60 days after filing under rule 486(a).¹²⁹

As discussed in the Proposing Release, our staff has previously stated that it would not recommend that the Commission take enforcement action under certain provisions of the Securities Act if, on a case-by-case basis, specific listed registered CEFs that conduct offerings under rule 415(a)(1)(x) use rule 486(b) to file certain post-effective amendments that are immediately effective upon filing.¹³⁰ The Proposing Release noted that staff in the Division of Investment Management were reviewing these no-action letters to determine if they should be withdrawn in connection with any final rules. The Commission also requested comment on whether it should make rule 486(b) available to all or a broader group of registered CEFs and BDCs.¹³¹ In response to this request, several commenters asked that we allow certain non-interval funds that conduct delayed or continuous offerings under rule 415 to rely on rule 486, in whole or in part.¹³² For example, one commenter suggested that the existing no-action letters be retained or codified. This commenter stated that withdrawing the no-action letters would be disruptive to relevant non-WKSI funds and their ability to update their registration

¹²⁹ Filings under rule 486(a) are generally effective on the sixtieth day after filing, but a registrant may designate a later date for effectiveness (which must not be later than eighty days after filing). In addition, the Commission, having due regard to the public interest and the protection of investors, may declare an amendment or registration statement effective under rule 486(a) on an earlier date. *See* rule 486(a).

¹³⁰ *See, e.g.*, Nuveen California Select Tax-Free Income Portfolio, SEC Staff No-Action Letter (Nov. 21, 2017); PIMCO Dynamic Income Fund, SEC Staff No-Action Letter (Dec. 12, 2017); Eagle Point Credit Company, Inc., SEC Staff No-Action Letter (Feb. 14, 2018); PIMCO Corporate & Income Opportunity Fund and PIMCO Income Opportunity Fund, SEC Staff No-Action Letter (Sep. 13, 2018); and DNP Select Income Fund, Inc., SEC Staff No-Action Letter (Oct. 4, 2018).

¹³¹ *See* Proposing Release, *supra* footnote 10, at section II.I.

¹³² *See* ABA Comment Letter and ICI Comment Letter.

statements and receive automatic effectiveness.¹³³ Additionally, two commenters recommended that we permit affected funds that are continuously-offered unlisted funds to rely on rule 486 in its entirety, including rule 486(a) and rule 486(b). The commenters suggested that, like interval funds, these unlisted funds are continuously offered and would benefit if their filings could become immediately effective or automatically effective 60 days after filing.¹³⁴ One of these commenters stated that, for example, allowing continuously-offered unlisted affected funds to rely on rule 486 would benefit investors in these funds by allowing the funds to avoid the time and expense of an annual staff review of registration statements where no changes are made beyond immaterial updates and updates to audited financial information.¹³⁵

In response to these comments, we are amending rule 486 to allow any registered CEF or BDC that conducts a continuous offering under rule 415(a)(1)(ix) to rely on rule 486.¹³⁶ We believe this rule amendment will allow these continuously-offered affected funds to maintain effective registration statements in a more efficient, cost-effective manner. For example, under rule 486(a), these funds will be able to make material changes to their registration statements on an automatically effective basis 60 days after filing. In addition, under rule 486(b), continuously-offered unlisted affected funds will be able, for example, to update their financial statements under section 10(a)(3) or make

¹³³ See ICI Comment Letter.

¹³⁴ See ABA Comment Letter and ICI Comment Letter.

¹³⁵ See ABA Comment Letter.

¹³⁶ We also are making a technical amendment to rule 486(b)(1)(iv) to provide a more accurate cross reference to Item 9.1.c of Form N-2. Moreover, we are amending Form N-2 to recognize the broader scope of affected funds that may rely on rule 486. See General Instruction E.4 of amended Form N-2 and cover page of amended Form N-2.

non-material changes to their registration statements on an immediately effective basis. The rule amendment will allow these funds to more efficiently maintain effective registration statements while they engage in continuous offerings. This is similar to the benefits the final rule will provide to affected funds that file short-form registration statements or qualify as WKSIs, as those funds also will be able to make certain updates to their registration statements more efficiently (*i.e.*, through forward incorporation by reference or automatically effective registration statements and post-effective amendments).¹³⁷ We believe it is appropriate for any affected fund that conducts delayed or continuous offerings under rule 415(a)(1)(ix), (x), or (xi) to have a mechanism for bringing its financial statements up to date under section 10(a)(3) without delay.¹³⁸ Together, the amendments we are adopting in this release and current rule 486 will achieve this objective.

Continuously-offered unlisted affected funds relying on rule 486 will continue to be subject to applicable provisions in rule 415.¹³⁹ Moreover, these funds will need to

¹³⁷ See *supra* sections II.B.3.b and II.B.3.c. Although affected funds that file short-form registration statements or qualify as WKSIs will be able to use forward incorporation by reference and automatically effective filings to make a broader range of updates to their registration statements on an immediate basis than those specified in rule 486(b), the majority of post-effective amendments that affected funds currently file are solely for one or more purposes described in rule 486(b). Moreover, interval funds, and affected funds that make continuous offerings under rule 415(a)(1)(ix), will be able to make other, material amendments that are automatically effective 60 days after filing.

¹³⁸ Rule 415(a)(1)(ix), (x), and (xi) are the provisions affected funds primarily use to conduct delayed or continuous offerings of their securities. Rule 415(a)(1)(ix) allows nontraded affected funds to engage in continuous offerings but does not allow delayed (or “shelf”) offerings. Rule 415(a)(1)(x) allows affected funds that are eligible to file short-form registration statements on Form N-2 to engage in delayed or continuous offerings. Rule 415(a)(1)(xi) allows interval funds to engage in delayed or continuous offerings.

¹³⁹ For example, rule 415 limits the amount of securities that can be registered in a continuous offering under rule 415(a)(1)(ix) and generally requires an issuer relying on

comply with relevant conditions in rule 486.¹⁴⁰ If it appears to the Commission that a post-effective amendment or registration statement filed under rule 486(a) may be incomplete or inaccurate in any material respect, the Commission may suspend the effective date of that filing. Further, if it appears to the Commission that the fund has not complied with the conditions in rule 486(b), the Commission may suspend the fund's ability to rely on rule 486(b).¹⁴¹

In addition to allowing an affected fund to rely on rule 486 if the fund makes continuous offerings under rule 415(a)(1)(ix), we are also amending the scope of registration statements that rule 486 covers. Currently, rule 486 is available for post-effective amendments and for registration statements filed for purposes of registering additional shares of common stock for which a Form N-2 registration statement is effective. This generally reflects the scope of amendments and registration statement filings interval funds make after their initial registration statements are effective. However, unlike interval funds, the affected funds that will newly be eligible to rely on rule 486 generally are required to file new registration statements every three years under rule 415(a)(5) and (6). We are amending rule 486 to allow these registration statements to be immediately or automatically effective under the rule, depending on the substance of the disclosure.¹⁴² Specifically, a registration statement a fund files to comply with rule

rule 415(a)(1)(ix) to file a new registration statement every three years. *See* rule 415(a)(2), (5), and (6).

¹⁴⁰ *See* rule 486(b)(2) (requiring certain written representations that a post-effective amendment filed under rule 486(b) is filed solely for one or more of the permissible purposes covered by the provision); rule 486(e) (requiring a fund to have filed a post-effective amendment or registration statement relating to its common stock that became effective within two years prior to the filing made under rule 486(a) or (b)).

¹⁴¹ *See* rule 486(c).

¹⁴² *See* amended rule 486(a), (b)(1)(vi), and (g).

415(a)(5) and (6) could be immediately effective upon filing if it is filed for no purpose other than to comply with those provisions of rule 415 or for other purposes listed in rule 486(b), such as making non-material changes or updating the fund's financial statements under section 10(a)(3). If the registration statement does not qualify under rule 486(b) because, for example, it includes material changes to the fund's disclosure, the registration statement could be automatically effective 60 days after filing under rule 486(a). As a result of the amendments, affected funds that make continuous offerings under rule 415(a)(1)(ix) will be able to rely on rule 486 for registration statements filed to comply with rule 415(a)(5) and (6), regardless of whether they choose to register additional shares at the time these provisions requires them to file new registration statements. This will promote consistent treatment of these funds' filings under the rule.

Although one commenter suggested that we retain or codify the staff no-action letters discussed above to allow affected funds that conduct delayed or continuous offerings under rule 415(a)(1)(x) to file post-effective amendments that are immediately effective under rule 486(b), we believe the final rule makes such relief unnecessary.¹⁴³ For example, while these funds will need to file new registration statements every three years under rule 415, during the interim period they will be able to update their registration statements through the forward incorporation by reference provisions applicable to short-form registration statement filers.¹⁴⁴ The forward incorporation by reference provisions allow these funds to avoid filing the types of post-effective amendments that rule 486(b) covers, as well as other types of post-effective amendments

¹⁴³ See ICI Comment Letter.

¹⁴⁴ See rule 415(a)(5) and (6); General Instructions A.2 and F.3 of amended Form N-2.

(e.g., those making material changes to the fund's disclosure). Thus, we do not believe that affected funds that make delayed or continuous offerings under rule 415(a)(1)(x) will need to file the types of post-effective amendments rule 486(b) covers.

Moreover, while the commenter only referred to post-effective amendments, rule 486(b) also covers new registration statements under certain circumstances. For instance, when an eligible fund has an effective registration statement and wants to register additional shares without making material amendments to its existing disclosure, rule 486(b) allows that new registration statement to be immediately effective.¹⁴⁵ If we were to permit a fund that makes delayed or continuous offerings under rule 415(a)(1)(x) to rely on rule 486(b) in its entirety, then the new registration statement the fund must file every three years could effectively become an automatic shelf registration statement, even though the fund does not qualify as a WKSI (e.g., it does not have \$700 million in public float).¹⁴⁶ As a result of these considerations, the no-action letters stating that the staff would not recommend an enforcement action if specific listed, registered CEFs conducted offerings under rule 415(a)(1)(x) using rule 486(b) will be withdrawn effective August 1, 2021 (one year from the effective date of the final rule).¹⁴⁷ Importantly, as

¹⁴⁵ See rule 486(b)(1)(i) and (v).

¹⁴⁶ Under these circumstances, a non-WKSI fund potentially could combine its ability to forward incorporate by reference and its ability to rely on rule 486(b) to achieve a WKSI-like status, with registration statements that would always be immediately effective upon filing. This could occur if, for example, a fund made material changes to its registration statement by forward incorporating information into its registration statement and then, to satisfy the requirement to file a new registration statement every three years, it filed a new registration statement under rule 486(b). In contrast, when an affected fund that may rely on rule 486 makes a material change to its registration statement, the relevant filing is not effective immediately. See rule 486(a).

¹⁴⁷ See *supra* footnote 130.

recognized above, the final amendments provide a mechanism for these funds to efficiently update their registration statements.

E. Final Prospectus Delivery Reforms

We are adopting, as proposed, rule amendments that will allow an affected fund to satisfy its final prospectus delivery obligations by filing its final prospectus with the Commission.

The Securities Act requires registrants to deliver to each investor in a registered offering a prospectus meeting the requirements of section 10(a) (known as a “final prospectus”).¹⁴⁸ Section 5(b)(2) makes it unlawful to deliver a security for the purpose of sale or for delivery after sale unless accompanied or preceded by a final prospectus. After the effectiveness of a registration statement, a written communication that offers a security for sale, or confirms the sale of a security, may be provided to investors if a final prospectus is sent or given previously or at the same time. Otherwise, such a communication may not be provided unless it is otherwise permitted under Commission rules or meets the requirements of section 10(a).¹⁴⁹

Rule 172 allows issuers, brokers, and dealers to satisfy final prospectus delivery obligations if a final prospectus is or will be on file with the Commission within the time required by the rules and other conditions are satisfied.¹⁵⁰ For example, rule 172 provides that a final prospectus will be deemed to precede or accompany a security for sale for purposes of section 5(b)(2) as long as the final prospectus is filed with the Commission or

¹⁴⁸ 15 U.S.C. 77j(a).

¹⁴⁹ 15 U.S.C. 77e(b)(2).

¹⁵⁰ 17 CFR 230.172 (Securities Act rule 172); *see also* Securities Offering Reform Adopting Release, *supra* footnote 5, at nn.560–562 and accompanying text.

it will be filed as part of the registration statement.¹⁵¹ Rule 172 applies only to final prospectuses and not to other documents.¹⁵² Rule 173 requires the delivery of a copy of the final prospectus or, in lieu of a final prospectus, a notice to purchasers stating that a sale of securities was made pursuant to a registration statement or in a transaction in which a final prospectus would have been required to have been delivered in the absence of rule 172.¹⁵³

Rules 172 and 173 do not apply to offerings of affected funds.¹⁵⁴ The BDC Act directs us to remove the exclusion for BDC offerings.¹⁵⁵ To implement the BDC Act, and to provide parity for registered CEFs consistent with the Registered CEF Act, we proposed to amend rules 172 and 173 to remove the exclusion for offerings of all affected funds. Commenters supported this approach, stating that the proposed amendments would reduce prospectus printing and delivery costs and provide parity for affected funds,

¹⁵¹ See Securities Act rule 172. In the event that the issuer fails to file such a prospectus in a timely manner, the issuer must file the prospectus as soon as practicable thereafter. Securities Act rule 172(c)(3); *see also* Securities Offering Reform Adopting Release, *supra* footnote 5, at n.568 and preceding text (describing this “cure” provision).

¹⁵² *See, e.g.*, Securities Offering Reform Adopting Release, *supra* footnote 5, at text following n.567.

¹⁵³ 17 CFR 230.173 (Securities Act rule 173). *See also* Proposing Release, *supra* footnote 10, at n.109. Rule 173(d) provides that a purchaser who receives a notification may request a copy of the final prospectus. We proposed a change to Item 34.6 of Form N-2, under which funds currently undertake to provide an SAI upon request, to require an affected fund to also undertake to provide a prospectus upon request. We received no comments regarding this aspect of the proposal and are making the change as proposed. *See* Item 34.7 of amended Form N-2.

¹⁵⁴ *See* Securities Act rule 172(d)(1)–(2); Securities Act rule 173(f)(2)–(3).

¹⁵⁵ Section 803(b)(2)(L) of the BDC Act; *see also* section 509(a) of Registered CEF Act (requiring parity of securities offering rules with operating companies for listed registered CEFs and interval funds).

consistent with the BDC Act and the Registered CEF Act.¹⁵⁶ We are adopting the amendments to rules 172 and 173 as proposed.¹⁵⁷

F. Communications Reforms

1. Offering Communications

We are adopting amendments to the communications rules, as proposed, to extend to affected funds the rules that currently provide operating companies and other parties (such as underwriters) increased flexibility in their communications.¹⁵⁸ The amendments permit these communications notwithstanding the “gun-jumping provisions” in the Securities Act, which restrict the types of offering communications that issuers or other parties subject to the Act’s provisions may use in connection with a registered public offering.¹⁵⁹ The gun-jumping provisions were designed to make the statutorily mandated prospectus the primary means for investors to obtain information regarding a registered securities offering.¹⁶⁰ Accordingly, the statute provides that unless otherwise permitted:

¹⁵⁶ See, e.g., SIFMA Comment Letter; ICI Comment Letter; Invesco Comment Letter; TIAA Comment Letter.

¹⁵⁷ See amended Securities Act rule 172(d); amended Securities Act rule 173(f).

¹⁵⁸ See, Proposing Release, *supra* footnote 10 at section II.E.1; see also Securities Act rule 134; Securities Act rule 168; Securities Act rule 156; Securities Act rule 163; Securities Act rule 163A; Securities Act rule 164; Securities Act rule 168; Securities Act rule 169; and Securities Act rule 433.

¹⁵⁹ Unless otherwise noted, offering communications generally refer to written communications. Rule 405 provides that “[e]xcept as otherwise specifically provided or the context otherwise requires, a written communication is any communication that is written, printed, a radio or television broadcast, or a graphic communication as defined in [rule 405].”

¹⁶⁰ See Securities Offering Reform Adopting Release, *supra* footnote 5, at 44731. *But see* section 5(d) of the Securities Act [15 U.S.C. 77e(d)], which permits an emerging growth company, or any person authorized to act on its behalf, to engage in oral or written communications with potential investors that are qualified institutional buyers, as defined in 17 CFR 230.144A (Securities Act rule 144A), or institutions that are accredited investors, as defined in 17 CFR 230.501(a) (Securities Act rule 501(a)), either prior to or

- Before an issuer files a registration statement, all offers, in whatever form, are prohibited;¹⁶¹
- After the issuer files a registration statement but before it has become effective, the only written offers that are permitted are those made using a preliminary prospectus that meets the requirements of section 10 of the Securities Act, which must be filed with the Commission,¹⁶² and
- Even after the registration statement is declared effective, offering participants still may make written offers only through a statutory prospectus, except that they may use additional written offering materials if a final prospectus that meets the requirements of Securities Act section 10(a) is sent or given prior to or with those materials.¹⁶³

Since the adoption of the Securities Act, the Commission has recognized that certain communications before, during, and after the filing of a registration statement do not raise the investor protection concerns that the gun jumping provisions aim to address. For this reason, the Commission has adopted several rules to provide clarity to issuers on the types of communications that are permissible and how to communicate with investors

after the filing of a registration statement, to determine their interest in a contemplated registered offering. These communications are often referred to as “testing the waters.” 17 CFR 230.163B (Securities Act rule 163B), recently adopted by the Commission, extends this accommodation to all issuers. Solicitations of Interest Prior to a Registered Public Offering, Securities Act Release No. 10699 (Sept. 25, 2019) [84 FR 53011 (Oct. 4, 2019)] (“Rule 163B Adopting Release”).

¹⁶¹ See section 5(c) of the Securities Act [15 U.S.C. 77e(c)].

¹⁶² This is because after the filing of the registration statement but before its effectiveness, offers made in writing (including electronically), by radio, or by television are limited to a “statutory prospectus” that conforms to the information requirements section 10 of the Securities Act. See sections 5(b)(1) and 10 of the Securities Act [15 U.S.C. 77e(b)(1) and 77(j)].

¹⁶³ See section 2(a)(10) and section 5(b)(1) of the Securities Act [15 U.S.C. 77b(a)(10) and 77e(b)(1)].

without violating the gun jumping provisions. We proposed to extend those rules to affected funds in the Proposing Release. Commenters generally supported the proposed amendments to the communications rules.¹⁶⁴ Two commenters stated that the amendments would allow increased flexibility in communications and provide parity with operating companies.¹⁶⁵ One commenter added that the amendments would make it easier to execute offerings by affected funds and would decrease costs, leading to lower offering costs and potentially enhance capital formation while not negatively impacting investor protections.¹⁶⁶

The Commission continues to believe that investors and the market will benefit from access to greater communications under conditions that preserve investor protections. To implement the BDC Act, and to provide parity for registered CEFs consistent with the Registered CEF Act, we are extending, as proposed, the communications rules currently available to operating companies to affected funds by removing the exclusions for affected funds and making other conforming changes.¹⁶⁷ Specifically, the amended rules will:

¹⁶⁴ See, e.g., SIFMA Comment Letter; Comment Letter of Sidley Austin LLP (June 10, 2019); ICI Comment Letter; ACC Comment Letter; CBD Comment Letter; MFDF Comment Letter; TIAA Comment Letter.

¹⁶⁵ See, e.g., SIFMA Comment Letter; ICI Comment Letter.

¹⁶⁶ See, e.g., SIFMA Comment Letter.

¹⁶⁷ See amended rules 134(g), 163(b)(3), 163A(b)(4), 164(f), 168(d)(3), and 169(d)(4) (removing references to BDCs and limiting the rules' exclusion of registered investment companies from the safe harbor to exclude registered funds other than registered CEFs).

See also amended rule 168 (adding to paragraphs (b)(1) and (2) references to the Investment Company Act to parallel current references to the Exchange Act to provide that forward-looking information and factual business information may be included in materials filed under the Investment Company Act); amended rule 433 (adding to paragraphs (a)(1)(i) and (iv) references to registration statements filed on Form N-2 under adopted General Instruction A.2 to parallel current references to Form S-3; adding to

- Permit affected funds to use rule 134 to publish factual information about the issuer or the offering, including “tombstone ads.”¹⁶⁸
- Permit affected funds to rely on rule 163A, which provides issuers a bright-line time period, ending 30 days prior to filing a registration statement, during which they may communicate without risk of violating the gun-jumping provisions.¹⁶⁹
- Permit affected funds that are reporting companies to rely on rule 168 to publish or disseminate regularly released factual business information and forward-looking information at any time, including around the time of a registered offering.¹⁷⁰ The amendments to rule 169 will also permit affected funds’ continued publication or dissemination of regularly released factual business information that is intended for use by persons other than in their capacity as investors or potential investors.¹⁷¹ We also are adopting amendments to rule 156 to state that nothing in that rule may be construed to prevent an affected fund from qualifying for an exemption under rule 168 or 169.¹⁷² The contents of any rule 168 or 169 communication remain subject to the anti-fraud provisions of the Federal securities laws.

paragraph (c)(1)(ii) a reference to reports filed under section 30 of the Investment Company Act as reports with which a free-writing prospectus may not conflict). *See also* amended rule 156(d); *infra* footnote 172.

¹⁶⁸ *See* Proposing Release, *supra* footnote 10, at n.122 (discussing rule 134).

¹⁶⁹ *See id.* at n.123 (discussing rule 163A).

¹⁷⁰ *See id.* at n.124 (discussing rule 168).

¹⁷¹ Rule 169 is also a safe harbor from the definition of “prospectus” in section 2(a)(10) of the Securities Act.

¹⁷² *See* amended rule 156(d); section 803(b)(2)(G) of the BDC Act; section 509(a) of Registered CEF Act.

- Permit affected funds to rely on rules 164 and 433 to use a “free writing prospectus.”¹⁷³
- Permit affected funds that are WKSIs to engage at any time in oral and written communications, including use at any time of a free writing prospectus (before or after a registration statement is filed), subject to the same conditions applicable to other WKSIs.¹⁷⁴

As we discussed in the Proposing Release, investment company communications currently are subject to rule 482.¹⁷⁵ Rule 482 communications can only be used by a fund that is selling or is proposing to sell its securities pursuant to a filed registration statement, and are prospectuses subject to prospectus liability under section 12 of the Securities Act.¹⁷⁶ The amendments to the communications rules provide affected funds with incremental flexibility in their communications, including additional flexibility to communicate before filing a registration statement, and some additional flexibility in using communications that are not subject to prospectus liability under section 12 of the Securities Act.¹⁷⁷ Moreover, as we discussed in the Proposing Release, both the BDC Act and Registered CEF Act direct the Commission to continue to make available Securities Act rule 482 communications, or “ads,” notwithstanding the amendments to the

¹⁷³ See Proposing Release, *supra* footnote 10, at n.127 (discussing rules 164 and 433).

¹⁷⁴ See *id.* at n.128 (discussing how communications rules apply to WKSIs).

¹⁷⁵ See *id.* at section II.E.1.

¹⁷⁶ 17 CFR 230.482 (Securities Act rule 482); see also 17 CFR 230.497(i) (Securities Act rule 497).

¹⁷⁷ See Proposing Release, *supra* footnote 10, at section II.E.1.

communications rules.¹⁷⁸ Affected funds therefore can now take advantage of additional flexibility under the communications rules as amended or continue to rely on rule 482 and other rules currently applicable to investment company communications.

In addition to comments on the proposed amendments to the communications rules, two commenters urged us to adopt rules that would extend the safe harbors for liability in private actions for certain forward looking statements under section 27A of the Securities Act and section 21E of the Exchange Act to affected funds.¹⁷⁹ Those commenters did not specify what the conditions or requirements of such a rule might be, and the public has not had the opportunity to comment on whether or how to extend safe harbors for forward-looking statements to affected funds. For these reasons, we believe commenters' request requires more extensive consideration beyond the scope of this rulemaking.

2. *Broker-Dealer Research Reports*

We are adopting the amendments to Securities Act rule 138 as proposed. Rule 138 permits a broker-dealer participating in the registered offering of an eligible issuer's common stock and similar securities to publish or distribute research reports about that

¹⁷⁸ See *id.* at text following n.128; see also sections 803(e)(2) of the BDC Act (prohibiting the Commission from interpreting the amendments directed by the BDC Act in a manner that would prevent BDCs from distributing sales material pursuant to rule 482 under the Securities Act); and 509(c)(1) of the Registered CEF Act (prohibiting the Commission from interpreting the amendments directed by the Registered CEF Act to impair or limit in any way a registered closed-end company from using rule 482 communications, under the Investment Company Act, to distribute sales material).

¹⁷⁹ See Dechert Comment Letter; IPA Comment Letter; see also sections 27A(b)(2)(B) and 27A(g) of the Securities Act [15 U.S.C. 77z-2(b)(2)(B) and 15 U.S.C. 77z-2(g)] and sections 21E(b)(2)(B) and 21E(g) of the Exchange Act [15 U.S.C. 78u-5(b)(2)(B) and 15 U.S.C. 78u-5(g)].

issuer's fixed income securities, and vice versa, if it publishes or distributes that research in the regular course of its business.

Although rule 138 does not currently exclude affected funds from coverage, it does include references to Form S-3 but not Form N-2. We therefore proposed to amend the rule's references to shelf registration statements filed on Form S-3 to include a parallel reference to a registration statement filed on Form N-2 under the proposed short-form registration instruction. Rule 138 also currently provides that an issuer covered in a research report published in reliance on the rule must be required to file reports, and must have filed all periodic reports required during the preceding 12 months (or such shorter time that the issuer was required to file such reports), on Forms 10-K and 10-Q.¹⁸⁰ Because registered CEFs do not file the periodic reports currently specified in rule 138, we proposed to include parallel references to the reports that registered CEFs are required to file, *i.e.*, reports on Forms N-CSR, N-Q, N-CEN, and N-PORT.¹⁸¹ We did not receive any comments on these amendments and are adopting them as proposed.

We are not adopting changes to 17 CFR 230.139 (rule 139).¹⁸² That rule provides a safe harbor for a broker-dealer's publication or distribution of research reports where the broker-dealer is participating in the registered offering of the issuer's securities and, unlike rule 138, permits the research report to cover any class of the issuer's securities.

As we stated in the Proposing Release, in 2018 the Commission adopted new 17 CFR 230.139b (Securities Act rule 139b) to implement the Fair Access to Investment

¹⁸⁰ See 17 CFR 230.138(a)(2)(i) (Securities Act rule 138(a)(2)(i)).

¹⁸¹ See *supra* section II.B.3.a (Form N-Q will be rescinded on May 1, 2020).

¹⁸² See Proposing Release, *supra* footnote 10, at section II.E.2.

Research Act of 2017 (the “FAIR Act”).¹⁸³ The FAIR Act directed that the Commission extend rule 139 to cover broker-dealers’ publication or distribution of “covered investment fund research reports.” These include research reports about affected funds.¹⁸⁴

Rule 139b includes specific provisions mandated by Congress for covered investment fund research reports. For example, rule 139b excludes from the rule’s safe harbor research reports published or distributed by the covered investment fund itself, any affiliate of the covered investment fund, or any broker-dealer that is an investment adviser (or an affiliated person of an investment adviser) for the covered investment fund.¹⁸⁵ The Commission did not propose changes to rule 139 because it believed that rule 139b satisfies the directives of the BDC Act and Registered CEF Act by extending rule 139’s safe harbor to research reports on BDCs and registered CEFs and is consistent with Congress’s core objective regarding research reports covering these funds.¹⁸⁶ The Commission observed that, if it were to amend rule 139 to cover research reports on BDCs, or on affected funds generally, exactly the same conduct would be subject to different standards based on the rule a broker-dealer chose to use.¹⁸⁷ The Commission

¹⁸³ See Fair Access to Investment Research Act of 2017, Pub. L. 115-66, 131 Stat. 1196 (2017); see also Covered Investment Fund Research Reports Adopting Release, *supra* footnote 101.

¹⁸⁴ 17 CFR 230.139b; see also Covered Investment Fund Research Reports Adopting Release, *supra* footnote 101, at 64183 (providing that under rule 139b, the term “covered investment fund” includes, among other things, registered investment companies and BDCs).

¹⁸⁵ See Covered Investment Fund Research Reports Adopting Release, *supra* footnote 101 at sections II.A.1 and II.E.2; see also section 2(f)(3) of the FAIR Act.

¹⁸⁶ See Covered Investment Fund Research Reports Adopting Release, *supra* footnote 101, at nn.144-145 and accompanying paragraph.

¹⁸⁷ *Id.*

believed that it would be more appropriate to provide a consistent approach for affected fund research reports under rule 139b.¹⁸⁸

One commenter suggested that we amend rule 139 and repeal rule 139b, in order to provide the same requirements for broker-dealer research reports on affected funds and operating companies.¹⁸⁹ The commenter raised concerns regarding differences between these two rules' requirements, such as rule 139b's "affiliate exclusion." That provision makes rule 139b's safe harbor inapplicable to research reports by a broker-dealer that is an investment adviser (or an affiliated person of an investment adviser) to the covered investment fund.

We acknowledged the differences between rule 139b and rule 139 in the Proposing Release. Indeed, the different requirements in rule 139b—which were mandated by Congress in the FAIR Act—are why we did not propose amendments to rule 139. We continue to believe that rule 139b already satisfies the directives of the BDC Act and Registered CEF Act by extending rule 139's safe harbor to research reports on BDCs and registered CEFs and is consistent with Congress's core objective regarding research reports covering these funds. If we were to amend rule 139 and rescind rule 139b as urged by this commenter, this would not give effect to Congress's more specific directives in the FAIR Act. Moreover, rule 139b, as directed by the FAIR Act, provides a consistent framework for research reports on "covered investment funds," which are not limited to the affected funds covered in this rulemaking. Maintaining rule 139b therefore provides a consistent approach for all "covered investment fund research reports."

¹⁸⁸ *Id.*

¹⁸⁹ *See* ABA Comment Letter.

G. Other Rule Amendments

1. Rule 418 Supplemental Information

As proposed, we are adopting amendments to rule 418 to exempt affected funds that are eligible to file a short-form registration statement on Form N-2 from the requirement to furnish certain supplemental information to the Commission or staff on request under paragraph (a)(3) of the rule. As discussed in the Proposing Release, operating companies that are eligible to use Form S-3 are already exempt from having to furnish certain information under rule 418(a)(3).¹⁹⁰ Commenters did not address the amendments to rule 418, which we proposed to implement the BDC Act and to provide parity for registered CEFs consistent with the Registered CEF Act.¹⁹¹ Consistent with the proposal, affected funds that are eligible to file a short-form registration statement on Form N-2 will not be required to furnish, on request, recent engineering, management, or similar reports or memoranda relating to broad aspects of the business, operations, or products of the registrant under amended rule 418(a)(3).¹⁹²

2. Amendments to Incorporation by Reference into Proxy Statements

We are adopting amendments to Schedule 14A under the Exchange Act as proposed, consistent with the BDC Act and the Registered CEF Act.¹⁹³ We did not receive comments on the proposed amendments to Schedule 14A. The amendments will

¹⁹⁰ See Proposing Release, *supra* footnote 10, at text accompanying n.147.

¹⁹¹ See section 803(b)(2)(M) of the BDC Act.

¹⁹² See Proposing Release, *supra* footnote 10, at n.148.

¹⁹³ Section 803(b)(2)(N) of the BDC Act (directing us to amend Item 13(b)(1) of Schedule 14A to include as an issuer to which Item 13(b)(1) applies a BDC that would otherwise meet the requirements of Note E of the Schedule); section 509(a) of the Registered CEF Act (requiring us to provide certain registered CEFs with the same flexibility under the proxy rules, subject to appropriate conditions, as is available to other issuers required to file reports under section 13 or section 15(d) of the Exchange Act).

allow affected funds that meet the requirements of the short-form registration instruction in Form N-2, as further described in Note E to Schedule 14A, to incorporate certain information by reference to previously-filed documents for proxy statements containing specific proposals under Item 13 of Schedule 14A.¹⁹⁴ The amendments allow eligible funds to incorporate by reference certain required information for relevant proxy proposals to the same extent that operating companies meeting the requirements of Form S-3 (as defined in Note E to Schedule 14A) may use incorporation by reference under the same circumstances.¹⁹⁵

3. *Rule 103 of Regulation FD*

We are adopting amendments to rule 103(a) of Regulation FD, as proposed, to provide that an affected fund's failure to make a public disclosure required solely by rule 100 of Regulation FD will not affect the fund's eligibility under the short-form registration instruction of Form N-2.¹⁹⁶ We did not receive comments on the proposed amendments to rule 103(a). The final amendments to rule 103(a) will enhance parity

¹⁹⁴ Item 13 applies to proxy statements seeking security holder approval to authorize, issue, modify, or exchange securities as described in Items 11 or 12 of Schedule 14A.

¹⁹⁵ The proposed definition in Note E of Schedule 14A of an affected fund that "meets the requirements of General Instruction A.2 of Form N-2" included certain conditions relating to the transaction requirements in General Instruction I.B or I.C of Form S-3, consistent with the conditions in the definition in Note E of an operating company that "meets the requirements of Form S-3." We are adopting the definition in Note E as proposed to provide parity between affected funds and operating companies although, as discussed in the Proposing Release, we believe these conditions are less likely to be relevant to affected funds. *See* Proposing Release, *supra* footnote 10, at n.152.

¹⁹⁶ Rule 100 of Regulation FD generally requires an issuer to make either simultaneous or prompt public disclosure of any material nonpublic information regarding the issuer or its securities that the issuer or a person acting on its behalf has selectively disclosed to certain parties. *See* 17 CFR 243.100 (requiring simultaneous public disclosure in the case of an intentional selective disclosure or prompt public disclosure in the case of a non-intentional selective disclosure).

between affected funds and operating companies, consistent with the BDC Act and the Registered CEF Act, as rule 103(a) already provides that an operating company's failure to make a public disclosure required solely by rule 100 of Regulation FD will not affect its eligibility to use Form S-3.¹⁹⁷

H. New Registration Fee Payment Method for Interval Funds and Issuers of Certain Exchange-Traded Products

We are adopting a modernized approach to registration fee payment that will require interval funds to pay securities registration fees using the same method that mutual funds and ETFs use today.¹⁹⁸ Specifically, for interval funds, the final rule will provide that such funds register an indefinite amount of securities upon their registration statements' effectiveness.¹⁹⁹ Like mutual funds and ETFs, interval funds will be required to pay registration fees based on their net issuance of shares, no later than 90 days after

¹⁹⁷ See section 803(b)(2)(O) of the BDC Act; 17 CFR 243.103(a) (rule 103(a) of Regulation FD).

¹⁹⁸ In general, issuers today—including interval funds—are required under the Securities Act to pay a registration fee to the Commission at the time of filing a registration statement. See sections 6(b)(1) (requiring applicants to pay a fee to the Commission at the time of filing a registration statement) and (c) (providing that a registration statement shall not be deemed to have taken place without payment of a registration fee) of the Securities Act [15 U.S.C. 77f(b)(1)]. This means that they pay registration fees at the time they register the offering of securities, regardless of when (or if) they sell them. WKSIs using automatic shelf registration statements have additional flexibility to pay filing fees at or prior to the time of a securities offering. See *supra* footnote 78; see also Securities Offering Reform Adopting Release, *supra* footnote 5, at 44780. This arrangement is commonly known as “pay-as-you-go.” *Id.* As a result, these filers may defer payment until a future takedown of shares off a shelf registration statement. Affected funds that become WKSIs as a result of our final rule will also gain that flexibility, but other affected funds will not. See *supra* section II.C.

¹⁹⁹ The final rule applies to interval funds the same treatment provided by rule 24f-2 to open-end funds and UITs. See amended rule 23c-3(e) (providing that an interval fund would be deemed to have registered an indefinite amount of securities under section 24(f) upon the effective date of its registration statement); see also amended rule 24f-2 (providing for interval funds to pay their registration fees on the same annual net basis as mutual funds, other open-end funds, and UITs). See section 4(e) of the Exchange Act [15 U.S.C. 78d-4(e)]; section 28 of the Securities Act [15 U.S.C. 77z-3)].

the funds' fiscal year ends.²⁰⁰ These issuers will be required to file information about the computation of this registration fee and other information on Form 24F-2 under the Investment Company Act when paying the fee.²⁰¹ In response to comments that we received, we also are extending similar treatment to certain ETPs that are not registered under the Investment Company Act.

We proposed to amend rules 23c-3 and 24f-2 so that interval funds would pay registration fees on this same annual net basis.²⁰² The commenters who addressed this aspect of the proposal supported it.²⁰³ Two commenters suggested expanding the scope of this aspect of our proposal to include additional types of issuers.²⁰⁴ One commenter recommended extending the scope of the provision to “all other funds” to confer the same benefits to those additional funds, such as eliminating the need to predict the number of shares the fund expects to sell.²⁰⁵ Another commenter suggested extending the scope to “tender offer funds”—those that make repurchase offers but that are not, like interval funds, required to periodically repurchase shares or to have a fundamental policy regarding its repurchase offers that can be changed only by a shareholder vote.²⁰⁶ We are

²⁰⁰ See section 24(f)(2) of the Investment Company Act [15 U.S.C. 80a-24(f)(2)]. Specifically, mutual funds and ETFs currently are required to pay fees on a net basis, based upon the sales price for securities sold during the fiscal year and reduced based on the price of shares redeemed or repurchased that year.

²⁰¹ 17 CFR 274.24.

²⁰² Proposing Release, *supra* footnote 10, at section II.G (discussing how and why interval funds are currently not permitted to pay registration fees on an annual net basis).

²⁰³ ICI Comment Letter; Invesco Comment Letter. No commenter expressed opposition to the proposed provision.

²⁰⁴ ABA Comment Letter; ICI Comment Letter.

²⁰⁵ ICI Comment Letter.

²⁰⁶ ABA Comment Letter.

adopting this provision as proposed. Of the categories of investment companies contemplated by commenters, only interval funds routinely repurchase shares at NAV and are required to periodically offer to repurchase their shares, making these funds more like mutual funds and ETFs, which are required to use this method.

In response to a request for comment in the Proposing Release, a number of commenters also recommended that certain ETPs that are not registered under the Investment Company Act be permitted to register offerings of an indefinite number of securities and pay registration fees in a manner equivalent to that under rule 24f-2.²⁰⁷ These commenters stated that these ETPs operate in a manner substantially similar to that of ETFs and would similarly benefit from paying registration fees on an annual net basis and from registering offerings of an indefinite number of securities.²⁰⁸ Some of these commenters also noted that the attributes cited in the Proposing Release for extending the ability to pay registration fees on an annual net basis to interval funds (routine repurchases of shares at NAV and avoiding the possibility that an interval fund would inadvertently sell more shares than it had registered) would also apply to these ETPs.²⁰⁹

²⁰⁷ GraniteShares Comment Letter; Invesco Comment Letter; ProShares Comment Letter; Comment Letter of State Street Global Advisors (June 21, 2019) (“SSGA Comment Letter”); USCF Comment Letter; WGC Comment Letter; Comment Letter of Morgan, Lewis & Bockius LLP (Jan. 15, 2020).

²⁰⁸ Invesco Comment Letter (stating that the provision would assist ETPs); ProShares Comment Letter (same); SSGA Comment Letter (same); GraniteShares Comment Letter (stating that the provision would assist ETPs, and would eliminate a competitive difference between ETPs and mutual funds); USCF Comment Letter (stating that the provision would provide ETPs with cost savings and efficiencies that would benefit investors); WGC Comment Letter (same). One commenter noted that the securities of these ETPs are issued and redeemed in large blocks called “creation units” through either in-kind transactions with brokerage firms and institutional investors or on a cash basis when the ETPs invest in futures contracts and other investments that cannot be transferred in-kind. GraniteShares Comment Letter.

²⁰⁹ USCF Comment Letter; SSGA Comment Letter; WGC Comment Letter.

After considering these comments, we have determined to adopt amendments to enable certain ETPs that are not registered under the Investment Company Act to elect to register an offering of an indeterminate number of securities and to pay registration fees for such an offering in a manner equivalent to that for mutual funds and ETFs (*i.e.*, in arrears on an annual net basis). In view of the concerns raised by commenters as well as the similarities between these ETPs and ETFs, we agree that it is appropriate to extend the availability of this treatment to these ETPs under the Securities Act. Accordingly, issuers that offer exchange-traded vehicle securities, as the term will now be defined in amended rule 405,²¹⁰ will be eligible under new Securities Act rule 456(d) to elect to register an offering of an indeterminate amount of exchange-traded vehicle securities and pay registration fees for such an offering on an annual net basis no later than 90 days after the end of the fiscal year when making this election. We are also adopting Securities Act rule 457(u), which sets forth the calculation method for paying registration fees in this manner and is consistent with the fee calculation provisions of Form 24F-2.²¹¹ Finally, we are adopting rule 424(i) pursuant to which issuers that elect to register an offering of an indeterminate amount of securities pursuant to rule 456(d) will be required to file a prospectus supplement when paying registration fees on an annual net basis.²¹²

²¹⁰ We believe that the scope of this definition properly limits the availability of this treatment to offerings of securities that share substantially similar attributes with those issued by ETFs, such as being listed on a national securities exchange and routine purchases and redemptions of the securities in “creation units” at NAV. The reference to “ratable share” in the definition encompasses repurchases or redemptions of securities that occur at NAV on an in-kind basis or cash basis.

²¹¹ We are amending a number of Securities Act registration statement forms (Forms S-1, S-3, F-1 and F-3) to provide that an issuer may elect to register an indeterminate amount of exchange-traded vehicle securities on these registration statement forms.

²¹² Rule 424(i) also includes certain disclosure requirements modeled after Form 24F-2.

I. Disclosure and Reporting Parity Proposals

We are adopting amendments to our rules and forms, substantially as proposed, intended to tailor the disclosure and regulatory framework for affected funds in light of our amendments to the offering rules. Many of these amendments are not required by the BDC Act or the Registered CEF Act, but we believe are consistent with the respective Acts' requirements to increase regulatory parity of affected funds with otherwise similarly-situated issuers.²¹³ As discussed in detail below, these amendments include structured data requirements; new annual reporting requirements; amendments to provide all affected funds additional flexibility to incorporate information by reference; and enhancements to the disclosures that registered CEFs make to investors when the funds are not updating their registration statements.

1. Structured Data Requirements

We are adopting, substantially as proposed, certain new structured data reporting requirements for registered CEFs and BDCs. In particular, and as discussed in detail below, we are requiring:

- BDCs, like operating companies, to submit financial statement information using Inline XBRL format;
- registered CEFs and BDCs to include structured cover page information in their registration statements on Form N-2 using Inline XBRL format;

²¹³ For example, regulatory parity could mitigate any competitive disparities between affected funds and other issuers. It also could help investors in affected funds by providing them investor protections that are currently provided to investors in similarly-situated issuers. *See, e.g., infra* discussion in paragraphs accompanying footnotes 284–289.

- certain information required in an affected fund’s prospectus to be tagged using Inline XBRL format; and
- filings on Form 24F-2 to be submitted in eXtensible Markup Language (“XML”) format.

a. *Inline XBRL Requirements for Financial Statements and Notes to Financial Statements*

We are adopting, as proposed, an amendment to 17 CFR 229.601 (Item 601 of Regulation S-K) to subject BDCs to the Inline XBRL financial statement tagging requirements that apply to operating companies, by removing the exclusion for BDCs from the Inline XBRL financial statement tagging requirements.²¹⁴ We continue to believe that reporting in a structured data format makes financial information easier for investors to analyze and helps automate regulatory filings and business information processing.²¹⁵ We also believe that BDC investors and other market participants would benefit from the availability of relevant information in a structured data format.²¹⁶ These requirements will reduce the current disparity between the accessibility of financial

²¹⁴ Compare 17 CFR 229.601(b)(101)(i) (amended Item 601(b)(101)(i) of Regulation S-K) (excluding registered investment companies from rule 601’s tagging requirements) with current Item 601(b)(101)(i) of Regulation S-K (excluding all registrants that prepare financial statements in accordance with 17 CFR 210.6-01 through 210.6-10 (Article 6 of Regulation S-X); see also amended rule 405(b)(3)(i) of Regulation S-T (requiring a BDC to tag its financial statements). We also are making conforming amendments to Items 601(b)(101)(ii)(A) and (iii) of Regulation S-K to clarify the exclusion of registered investment companies from rule 601’s tagging requirements.

²¹⁵ Proposing Release, *supra* footnote 10, at section II.H.1.a.

²¹⁶ *Id.* We also observed that having this information in a structured data format would enhance our staff’s ability to review and analyze BDCs’ financial statements.

information BDCs provide to the market and the accessibility of substantially similar financial information that operating companies provide to the market.²¹⁷

The commenters who addressed this proposed requirement supported it.²¹⁸ Some of these commenters stated that structured financial statement data would be more useful to investors than information in only a HyperText Markup Language (“HTML”) or plain text format.²¹⁹ One of these commenters stated that more structured financial statement reporting would improve the clarity and transparency of reported information by using consistent, agreed-upon definitions, and would yield information that is less expensive to process and more timely than unstructured data.²²⁰ Another commenter stated that eliminating the delay for data users to obtain information once it is public makes capital markets more efficient.²²¹

Two commenters supported the use of the Inline XBRL format specifically.²²² One of these commenters noted that, because Inline XBRL is both machine-readable and human-readable, it will help investors in BDCs quickly access structured data just as investors in operating companies can.²²³ This commenter also highlighted potential benefits of the format for issuers, stating that data in Inline XBRL format is easier to

²¹⁷ *Id.* (summarizing the structured data reporting requirements for operating companies and registered investment companies).

²¹⁸ Calcbench Comment Letter; Comment Letter of IRIS Business Services Ltd. (June 10, 2019) (“IRIS Comment Letter”); Comment Letter of XBRL US (June 10, 2019) (“XBRL US Comment Letter”).

²¹⁹ Calcbench Comment Letter; XBRL US Comment Letter.

²²⁰ XBRL US Comment Letter.

²²¹ Calcbench Comment Letter.

²²² IRIS Comment Letter; XBRL US Comment Letter.

²²³ IRIS Comment Letter.

review than, for example, the same data in separate XBRL and HTML formats.²²⁴ Some commenters also stated that the currently available XBRL taxonomies will be sufficient for BDCs.²²⁵ After considering public comments received, and because we continue to believe that investors will benefit from the availability of relevant information in a structured data format, we are adopting this requirement as proposed.²²⁶

b. *New Check Boxes and Structured Data Format for Form N-2 Cover Page Information*

We are adopting, as proposed, a requirement that all affected funds tag all of the data points that appear on the cover page of Form N-2, except the Calculation of Registration Fee table, using Inline XBRL format.²²⁷ These cover page data points will

²²⁴ IRIS Comment Letter. The commenter also stated that it is appropriate to subject BDCs to the same format as operating companies—compared to requiring BDCs to report on Forms N-PORT and N-CEN—because the format of their financial statements is similar to that of operating companies. *Id.* Another commenter observed that the same applications used to prepare XBRL for operating companies could be leveraged for BDCs, increasing economies of scale. XBRL US Comment Letter.

²²⁵ IRIS Comment Letter; XBRL US Comment Letter. Based on our staff’s review of BDCs’ disclosures and assessment of the XBRL taxonomies’ development since they were first adopted in 2009, the Commission stated its belief that relevant XBRL taxonomies were sufficiently well developed for financial statement reporting by BDCs. Proposing Release, *supra* footnote 10, at section II.H.1.a. One commenter observed that BDC financial statement line items were already captured in the US GAAP Taxonomy and that a new custom schema would be an unnecessary cost for the Commission and the marketplace. XBRL US Comment Letter. Another commenter stated, however, that it would expect a greater use of non-standard reporting elements than for average operating companies. IRIS Comment Letter. We continue to believe that the relevant XBRL taxonomies are sufficiently well developed for use by BDCs, even if BDCs use non-standard elements more than the average operating company.

²²⁶ *See supra* footnote 214.

²²⁷ *See* new General Instruction I.1 of amended Form N-2; new rule 405(b)(3)(ii) of amended Regulation S-T.

We also are making certain conforming revisions to proposed General Instruction H (Interactive Data Files), which we renumbered as General Instruction I of amended Form N-2. In addition, and as a result, we renumbered General Instruction I of current Form N-2 (Registration of Additional Securities) as General Instruction J of amended Form N-2.

include, for example, the company name, the Act or Acts to which the registration statement relates, and check boxes relating to the effectiveness of the registration statement. We currently require operating companies to tag all of the data points on the cover page of Form 10-K, Form 10-Q, Form 8-K, Form 20-F, and Form 40-F using Inline XBRL format.²²⁸ The Commission generally proposed to extend this requirement to mandatory tagging of the data points on the cover page of Form N-2 because it believed it would allow investors, other market participants, and other data users to automate their use of this information.²²⁹

The commenters who addressed the proposed requirement supported it.²³⁰ As above, two commenters supported the proposed Inline XBRL format, stating that it would provide benefits for investors, regulators, and issuers.²³¹ One commenter specifically supported requiring the Inline XBRL format over allowing reporting entities to choose from more than one data standard or developing a custom schema for the required information.²³² After considering public comments received, and because we continue to

²²⁸ See 17 CFR 232.406 [rule 406 of Regulation S-T]; FAST Act Modernization Adopting Release, *supra* footnote 66, at 12674.

²²⁹ Proposing Release, *supra* footnote 10, at section II.H.1.b. The Commission noted that this requirement would enhance investors' ability to better identify, count, sort, aggregate, compare, and analyze registrants and disclosures to the extent these data points otherwise would be formatted only in HTML.

²³⁰ IRIS Comment Letter; XBRL US Comment Letter.

²³¹ IRIS Comment Letter; XBRL US Comment Letter; *see also supra* footnotes 222–224 and accompanying text.

²³² XBRL US Comment Letter (stating that multiple data standards would cause confusion in the marketplace and unnecessary costs throughout the reporting supply chain and that a custom schema would require the development of new tools to create and to extract and analyze the data).

believe that it would allow investors, other market participants, and other data users to automate their use of this information, we are adopting this requirement as proposed.

The Commission did not propose to require affected funds to tag the table on the form's cover page that includes information about calculation of the fund's registration fee under the Securities Act.²³³ One commenter recommended that the Commission require tagging of such registration fee information, stating that these are valuable data elements and that extending the requirement to fee information would not increase the burden of tagging on issuers.²³⁴ The Commission recently proposed such amendments to Form N-2 as part of a larger proposal to modernize the filing fee disclosure and payment methods for most of the Commission's fee-bearing forms, statements, and related rules.²³⁵ As a result, we believe that the filing fee disclosure and payment modernization rulemaking is a more appropriate vehicle for considering whether the fee calculation information on Form N-2 should be tagged.

In addition, we are amending Form N-2 to add new check boxes to its cover page, as proposed.²³⁶ We proposed several new check boxes to allow investors, Commission

²³³ See Proposing Release, *supra* footnote 10, at section II.H.1.b.

²³⁴ See XBRL US Comment Letter.

²³⁵ See Filing Fee Disclosure and Payment Methods Modernization, Investment Company Act Release No. 33676 (Oct. 24, 2019) [84 FR 71580 (Dec. 27, 2019)].

²³⁶ See cover page of amended Form N-2. For purposes of 17 CFR 230.401(g) (Securities Act rule 401(g)), an affected fund that checks a box on Form N-2 to indicate that it is relying on the short-form registration instruction or that it is a WKSI filing an automatic shelf registration statement will be deemed to have filed the relevant registration statement or post-effective amendment properly under the applicable provisions of Form N-2 unless the Commission objects in the manner set forth in rule 401(g). See 17 CFR 230.401(g).

staff, and others to more readily identify types of issuers and securities.²³⁷ We continue to believe that this check box information will allow investors, Commission staff, and others to more readily identify types of issuers and securities, and so are adopting this provision as proposed.²³⁸ These check boxes will be among the data points required to be tagged using Inline XBRL format.²³⁹

c. *Tagging of Prospectus Disclosure Items*

We are adopting, as proposed, a requirement that all affected funds tag certain information that is required to be included in an affected fund’s prospectus using Inline XBRL format. All affected funds will be required to submit certain information in registration statements or post-effective amendments filed on Form N-2 and certain forms of prospectuses filed pursuant to rule 424 under the Securities Act to the Commission using Inline XBRL.²⁴⁰ A seasoned fund filing a short-form registration statement on Form N-2 also will be required to tag information appearing in Exchange Act reports—such as those on Form N-CSR, 10-K, 10-Q, or 8-K—if that information is required to be tagged in the fund’s prospectus.²⁴¹

²³⁷ Proposing Release, *supra* footnote 10, at section II.G.1.b. (discussing proposed check box requirements on Form N-2 cover page). In a conforming change, we are also including a check box that is substantively identical to a parallel check box on Form S-3 for emerging growth companies that have elected not to use an extended transition period for complying with new or revised accounting standards. *See* cover page of amended Form N-2.

²³⁸ Commenters recommended that the Commission clarify that the check box indicating that the only securities being registered are being offered pursuant to dividend or interest reinvestment plans is not intended to affect the ability of affected funds to rely on “Guide 5. Dividend Reinvestment Plans” to Form N-2. *See* Dechert Comment Letter; IPA Comment Letter. The new check box will not affect that ability.

²³⁹ *See supra* footnote 227.

²⁴⁰ *See* new General Instruction I.2 of amended Form N-2.

²⁴¹ *See* new General Instruction I.3 of amended Form N-2.

We will require affected funds to tag the following prospectus disclosure items using Inline XBRL format: Fee Table; Senior Securities Table; Investment Objectives and Policies; Risk Factors; Share Price Data; and Capital Stock, Long-Term Debt, and Other Securities.²⁴² We continue to believe that these items are of greatest utility for investors and other data users that seek structured data to analyze and compare funds, as they provide important information about a fund's key features, costs, and risks.²⁴³ We believe tagging the Fee Table, which provides detailed information about the fund's costs, could facilitate analysis of fund costs and allow investors and other data users to compare the costs of a particular affected fund to the costs of other funds or other investment products, such as mutual funds. The Senior Securities Table requires registrants to include information about each class of senior securities, including bank loans. Tagging this information will facilitate analyses of outstanding senior securities that may bear on the likelihood, frequency, and size of distributions from the fund to its investors. Tagging Investment Objectives and Policies, which provides information about the fund's principal portfolio emphasis, will help an investor determine the degree to which a fund's objectives and policies align with the investor's preferences. Risk Factors describes risks associated with an investment in the fund. Tagging Risk Factors will facilitate the aggregation, analysis, and comparison by investors and other data users of information about a fund's risks alongside the fund's features and benefits. Tagging

²⁴² See new General Instructions I.2 and I.3 of amended Form N-2; *see also* Items 3.1, 4.3, 8.2.b, 8.2.d, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a–d, 10.2.a–c, 10.2.e, 10.3, and 10.5 of amended Form N-2. This information largely parallels similar information contained in the Form N-1A risk/return summary. *See* Item 2 (Risk/Return Summary: Investment Objectives/Goals), Item 3 (Risk/Return Summary: Fee Table), and Item 4 (Risk/Return Summary: Investments, Risks and Performance) of Form N-1A.

²⁴³ *See generally* Proposing Release, *supra* footnote 10, at section II.H.1.b.

Share Price Information is important because the presence of a premium or discount may bear on the likelihood, frequency, and size of distributions from the fund to its investors, which we believe may be of particular importance to many affected fund investors.

Tagging Capital Stock, Long-Term Debt, and Other Securities better informs common shareholders how their rights, expenses, and risks are affected when the fund issues other types or classes of securities. We also continue to believe that these items are best suited to being tagged in a structured format.

The commenters who addressed the proposed requirement supported it.²⁴⁴ These commenters stated that the tagged data would be useful, including both numeric and narrative information.²⁴⁵ In addition, one commenter asserted that the Commission should require tagging all financial data that is required to be reported.²⁴⁶ We believe that this rule is appropriately focused on the key items that are most suitable for tagging and of greatest utility for investors.

Because we continue to believe that structuring these data elements will allow investors, other market participants, and other data users to automate their use of this information, we are adopting this requirement as proposed.²⁴⁷ As with other new

²⁴⁴ IRIS Comment Letter; XBRL US Comment Letter.

²⁴⁵ *Id.* One commenter also supported the proposed scope of the new requirement—all affected funds—stating that if some issuers are excluded, it would result in higher costs for preparer and users of data. XBRL US Comment Letter. One commenter offered support for the proposed Inline XBRL format, stating that it would provide benefits to investors, regulators, and issuers. IRIS Comment Letter; *see also supra* footnotes 222–224 and accompanying text.

²⁴⁶ XBRL US Comment Letter.

²⁴⁷ *See* new General Instructions I.2 and I.3 of amended Form N-2; new rule 405(b)(3)(iii) of amended Regulation S-T. We also are making conforming amendments to rule 601(b)(101)(i)(C) of Regulation S-K, rule 11 of Regulation S-T, and adding a new

Commission XBRL taxonomies, staff will post for public review and feedback a draft Inline XBRL taxonomy for affected funds' tagged prospectus disclosures.²⁴⁸ When available, affected funds will be required to use the most recent version of the Inline XBRL taxonomy for tagged prospectus disclosures, as specified by the EDGAR Filer Manual.²⁴⁹

As the Commission proposed, and as required of mutual funds and ETFs under the recently adopted Inline XBRL regime,²⁵⁰ we will require affected funds to submit “Interactive Data Files” (*i.e.*, machine-readable computer code that presents information in XBRL format)²⁵¹ as follows:

- for any registration statements and post-effective amendments, Interactive Data Files must be filed either concurrently with the filing or in a subsequent amendment that is filed on or before the date that the registration statement or post-effective amendment that contains the related information becomes effective,²⁵²

general instruction to Form N-CSR to implement the specified prospectus disclosure tagging requirements for affected funds.

²⁴⁸ Taxonomies are *available at* https://www.sec.gov/structureddata/dera_taxonomies.

²⁴⁹ See rule 405(c)(1) of Regulation S-T.

²⁵⁰ See Inline XBRL Filing of Tagged Data, Investment Company Act Release No. 33139 (June 28, 2018) (“Inline XBRL Adopting Release”).

²⁵¹ The term “Interactive Data File” is defined to mean “the machine-readable computer code that presents information in [XBRL] electronic format pursuant to [rule 405 of Regulation S-T] and as specified by the EDGAR Filer Manual.” See rule 11 of Regulation S-T. The EDGAR Filer Manual sets forth the technical formatting requirements for the presentation and submission of electronic filings through the EDGAR system.

²⁵² New General Instruction I.2 of amended Form N-2; *cf.* General Instruction C.3.(g)(i)(B) of Form N-1A.

- for any form of prospectus filed pursuant to rule 424, Interactive Data Files must be submitted concurrently with the filing,²⁵³ and
- for any Exchange Act reports that a seasoned fund filing a short-form registration statement on Form N-2 will have to tag, as discussed above, Interactive Data files must be submitted concurrently with the filing.²⁵⁴

We proposed this approach to facilitate timely availability and promote the comparability and utility of important information in a structured data format for investors, other market participants, and other data users, which we believed would yield substantial benefits.²⁵⁵ We did not receive comments on this aspect of the proposal. We continue to believe that this approach will yield the substantial benefits discussed above and therefore are adopting it as proposed.

d. *Structured Data Format for Form 24F-2*

We will require submission of filings on Form 24F-2 in a structured XML format.²⁵⁶ We proposed this use of a structured data format, believing that it would make it easier for issuers to accurately prepare and submit the information required by Form

²⁵³ New General Instruction I.2 of amended Form N-2; *cf.* General Instruction C.3.(g)(ii) of Form N-1A.

²⁵⁴ New General Instruction I.3 of amended Form N-2.

²⁵⁵ Proposing Release, *supra* footnote 10, at section II.H.1.c.

²⁵⁶ *See* General Instruction A.3 to amended Form 24F-2 (requiring reports on Form 24F-2 to be submitted in electronic format pursuant to the EDGAR Filer Manual and Appendices). We are expanding the group of issuers subject to filing on Form 24F-2 to include interval funds. *See supra* section II.H. We also are making a technical correction in Form 24F-2 to refer to the applicable paragraph of 17 CFR 232.101 (rule 101 of Regulation S-T). *See* General Instruction A.3 to amended Form 24F-2 (correcting “rule 101(a)(1)(i)” to “rule 101(a)(1)(iv)”). In addition, we are amending Form 24F-2 to add a free text response field, and a requirement to provide the EDGAR series/class (contract) ID for each separately reported series/class (contract) to facilitate implementation of the new structured data format. *See* amended Form 24F-2.

24F-2 and would make the submitted information more useful to Commission staff.²⁵⁷

The commenters who addressed the proposed requirement to structure Form 24F-2 supported it,²⁵⁸ with one commenter observing that the structured registration fee information could be useful in validating the submission.²⁵⁹ Commenters were mixed on the proposed custom XML format, with one commenter supporting the proposed XML format,²⁶⁰ and another recommending that the Commission use an XBRL format instead.²⁶¹

Because Form 24F-2 is primarily used by Commission staff to validate registration fees paid by issuers and not for financial reporting purposes, we continue to believe that a custom XML schema will be an appropriate format for the required information. For example, while XBRL allows issuers to capture the rich complexity of financial information presented in accordance with GAAP, we believe that XML is more

²⁵⁷ Proposing Release, *supra* footnote 10, at section II.H.1.d.

²⁵⁸ IRIS Comment Letter; XBRL US Comment Letter.

²⁵⁹ IRIS Comment Letter.

²⁶⁰ IRIS Comment Letter. Additionally, two commenters recommended that the Commission require that reports on Forms N-CEN and N-PORT, which require reporting of information in a structured data format using a custom XML schema, be in XBRL or Inline XBRL format. *See* XBRL US Comment Letter; IRIS Comment Letter. The Commission considered requiring reporting in XBRL format in connection with its adoption of Forms N-CEN and N-PORT and determined that the relatively simple characteristics reported on those forms is more suited to XML than XBRL. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870, 81906–07 (Nov. 17, 2016)] (“Investment Company Reporting Modernization Adopting Release”).

²⁶¹ XBRL US Comment Letter (stating that a custom XML schema will result in added costs for reporting entities and data consumers relative to XBRL). This commenter also suggested requiring the use of validation rules and linking custom extensions to improve data quality for reported financial information. XBRL US Comment Letter. While we encourage the use of appropriate tools to improve data quality, we believe that consideration of a requirement to use validation rules or use custom extension linking would best be taken up on a separate, holistic basis, for BDCs and operating companies alike, rather than in the context of this final rule.

appropriate for the relatively simple characteristics of the fund's fee information in reports on Form 24F-2.²⁶² In addition we continue to believe that the XML format will improve the quality of information disclosed by providing a built-in validation framework of the data in the reports.²⁶³ We therefore will require reports on Form 24F-2 to be filed in a structured XML format, as proposed.

2. *Periodic Reporting Requirements*

We are also adopting new annual report requirements, as proposed. As we discussed in the Proposing Release, we expect several of the reforms we are adopting in this release, such as those relating to automatically effective shelf registration, forward incorporation by reference, and final prospectus delivery, will elevate the importance of periodic reporting relative to prospectus disclosure for affected funds.

A seasoned fund filing a short-form registration statement on Form N-2 will be required to forward incorporate all periodic Exchange Act reports into its registration statement.²⁶⁴ This should result in periodic reports becoming a more salient, convenient, and comprehensive source of updated information about a particular seasoned fund, relative to that fund's registration statement. As a result, these funds' annual reports may take on greater prominence, with investors looking to the annual reports for key information.²⁶⁵ Registered CEFs' shareholder reports may also take on greater

²⁶² See Investment Company Reporting Modernization Adopting Release, *supra* footnote 260, at nn.449–50 and accompanying text.

²⁶³ See *id.*

²⁶⁴ See new General Instruction F.3.b of amended Form N-2.

²⁶⁵ In 2005, the Commission observed that recent enhancements to Exchange Act reporting enabled us to rely on those reports to a greater degree in adopting our rules to reform the securities offering process. Securities Offering Reform Adopting Release, *supra* footnote

prominence for investors because, under the final rule, affected funds will not be required to deliver final prospectuses but will still be required to deliver shareholder reports at least semi-annually.²⁶⁶

Accordingly, as proposed, we are requiring seasoned funds that register using the proposed short-form registration instruction to include key information in their annual reports regarding fees and expenses, premiums and discounts, and outstanding senior securities that the funds currently disclose in their prospectuses.²⁶⁷ Because the annual report will be incorporated by reference into the fund's prospectus, requiring disclosure in both the prospectus and annual report should not require duplicative disclosure. Moreover, specifying identical disclosure requirements in both places may facilitate forward incorporation by reference, by making clear that the same required disclosure will satisfy both requirements. We continue to believe that investors should have no less current information than they do today about these items when the fund is offering its shares.²⁶⁸ Finally, we are requiring, as proposed, registered CEFs to provide management's discussion of fund performance (or "MDFP") in their annual reports to shareholders, BDCs to provide financial highlights in their registration statements and annual reports, and affected funds filing a short-form registration statement on Form N-2

5, at 44726. As the Commission did then, we believe that enhanced periodic reporting is an important corollary to reform of the offering process under the Securities Act. *See id.*

²⁶⁶ Compare Securities Act rule 172 with 17 CFR 270.30e-1 (Investment Company Act rule 30e-1); *see also supra* section II.C.

²⁶⁷ In general, these requirements are expressed as a cross-reference to the specified registration statement requirements in Form N-2. *See* new Instructions 4.h.(1)–4.h.(3) to Item 24 of amended Form N-2 (referencing Items 4.3, 3.1, and 8.5 of amended Form N-2, respectively).

²⁶⁸ Proposing Release, *supra* footnote 10, at section II.H.2.

to disclose material unresolved staff comments.²⁶⁹ These provisions are intended to modernize and harmonize our periodic report disclosure requirements for affected funds with those applicable to operating companies and mutual funds and ETFs.²⁷⁰

a. *Fee and Expense Table, Share Price Data, and Senior Securities Table*

We are adopting a requirement, as proposed, that funds filing a short-form registration statement on Form N-2 include key information in their annual reports that they disclose in their prospectuses in light of the importance of this information and the increased prominence of shareholder reports under our final rule. Specifically, we will require that these funds include the following information in their annual reports:²⁷¹

- *Fee and Expense Table*: Form N-2 requires registrants to include information about the costs and expenses that the investor will bear directly or indirectly, using specified captions and a specified tabular format.²⁷² This table is designed to help investors understand the costs of investing in an affected fund and to compare those costs with the costs of other affected funds.²⁷³ The Commission has previously noted the importance of costs to an investment decision and, in the

²⁶⁹ See *infra* sections II.I.2.a–II.I.2.d. See new Instruction 4.g to Item 24 of amended Form N-2 (MDFP); deletion of Instruction 1 to Item 4 of current Form N-2 (BDC financial highlights); and new Instruction 4.h.(4) to Item 24.4.h(4) of amended Form N-2 (material unresolved staff comments).

²⁷⁰ We are also, as proposed, amending Form N-2 to apply certain of its requirements for annual reports to BDCs. See new Instruction 10 to Item 24 of amended Form N-2.

²⁷¹ See new Instructions 4.h.(1) (senior securities table), 4.h.(2) (fee and expense table), and 4.h.(3) (share price data) to Item 24 of amended Form N-2.

²⁷² See Item 3.1 of amended Form N-2; see also new Instruction 4.h.(2) to Item 24 of amended Form N-2.

²⁷³ See Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Release No. 28064 (Nov. 21, 2007) [72 FR 67790, 67794 (Nov. 30, 2007)].

case of registered open-end funds, has specified the location of the fee table to enhance the prominence of the cost information.²⁷⁴

- *Share Price Data*: Form N-2 requires registrants to include information about the share price of the registrant’s stock as well as information about any premium or discount that the share price reflects, compared to the registrant’s NAV.²⁷⁵ The presence of a premium or discount may bear on the likelihood, frequency, and size of distributions from the fund to its investors, which we believe may be of particular importance to many affected fund investors.
- *Senior Securities Table*: Form N-2 requires registrants to include information about each of its classes of senior securities, including bank loans.²⁷⁶ As with a premium or discount, any outstanding senior securities may bear on the likelihood, frequency, and size of distributions from the fund to its investors. A registrant must disclose information about its senior securities for the most recent ten years, the last five years of which must be audited.²⁷⁷

²⁷⁴ See *id.*; Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546, 4553 (Jan. 26, 2009)]; Request for Comment on Fund Retail Investor Experience and Disclosure, Investment Company Act Release No. 33113 (June 5, 2018) [83 FR 26891, 26901 (June 11, 2018)] (“Investor Experience Request for Comment”).

²⁷⁵ See Item 8.5 of amended Form N-2; see also new Instruction 4.h.(3) to Item 24 of amended Form N-2 (share price data).

²⁷⁶ See Item 4.3 of amended Form N-2; see also new Instruction 4.h.(1) to Item 24 of amended Form N-2.

²⁷⁷ See Instruction 1 to Item 4.3 (applying Instruction 8 to Item 4.1 to Item 4.3) and Instruction 8 to Item 4.1 (requiring the information to be audited) of amended Form N-2.

The commenters that addressed these proposed requirements related to the Fee and Expense Table, Share Price Data, and Senior Securities Table supported them.²⁷⁸

Because we continue to believe in the importance of this information and the increased prominence of shareholder reports under our final rule,²⁷⁹ we are adopting this aspect of the proposal as proposed.²⁸⁰

With respect to the Senior Securities Table, two commenters requested that we revise the instruction to Form N-2 as it relates to affected funds to reduce the audit requirement from the last five-years (in the registration statement) to the same periods as contained in the audited balance sheet presented in the annual report.²⁸¹ However, such a change would alter the periods presented for the Senior Securities Table, which match the

²⁷⁸ ICI Comment Letter; Invesco Comment Letter. Two other commenters stated that they did “not object” to the proposed requirements. Dechert Comment Letter; IPA Comment Letter. Several commenters opposed related potential modifications addressed in the requests for comment within the Proposing Release that we are not adopting. Dechert Comment Letter (opposing expansion of proposed requirement to semi-annual reports; opposing expansion of requirement to “portfolio companies” table); IPA Comment Letter (same). One commenter recommended that the Commission continue to consider ways to enhance the fund retail investor experience, including the content of the annual report. ICI Comment Letter. The Commission staff is continuing to consider comment letters received in response to the Investor Experience Request for Comment. *See supra* footnote 274.

²⁷⁹ Proposing Release, *supra* footnote 10, at section II.H.2.a.

²⁸⁰ One commenter recommended that we add an instruction to Form N-2 to “clarify” that the schedules required by 17 CFR 210.12-12 (rule 12-12 of Regulation S-X) satisfy the Portfolio Companies table requirement in Item 8.6.a of Form N-2. *See* Dechert Comment Letter. We are not making this change because the two provisions do not require the same information. Disclosure satisfying the requirements of rule 12-12 of Regulation S-X would not always satisfy the requirements of Item 8.6.a. For example, Item 8.6.a of Form N-2 requires certain information about each portfolio company, such as the percentage of each class owned by the issuer, the issuer’s relationship with the portfolio company, and the address of the portfolio company. Regulation S-X requires no such disclosures.

²⁸¹ Dechert Comment Letter (“[W]e believe that the SEC should revise the instructions to Item 4.3 of Form N-2 to state that an Affected Fund need only audit the information in the senior securities table for the same periods as contained in the audited balance sheet included in the fund’s annual report.”); IPA Comment Letter.

periods presented in the Financial Highlights.²⁸² Given the importance of asset coverage and the comparability of information contained in both the Financial Highlights and the Senior Securities Table, we do not believe such a change is appropriate. Additionally, because the annual report will be incorporated by reference into the fund’s prospectus, filing the audited senior securities table in the annual report will not result in duplicative disclosure. For this reason, we have determined not to amend the requirements in the manner suggested by the commenters.

b. *Management’s Discussion of Fund Performance*

We are also adopting, as proposed, an amendment to Form N-2 that will extend the MDFP disclosure requirements to all registered CEFs.²⁸³ Currently, mutual funds and ETFs are required to include MDFP in their annual reports to shareholders.²⁸⁴ MDFP disclosure aids investors in assessing a fund’s performance over the prior year and complements other backward looking information required in the annual report, such as financial statements.²⁸⁵ This required disclosure is grounded conceptually in the disclosure requirement for operating companies (as well as BDCs) to include a narrative discussion of the financial statements of the company—“management discussion and

²⁸² See Instruction 1 to Item 4.3 of Form N-2 (applying Instruction 3 to Item 4.1 to the Senior Securities Table).

²⁸³ New Instruction 4.g to Item 24 of amended Form N-2.

²⁸⁴ Item 27(b)(7) of Form N-1A. This requirement applies to registered open-end management investment companies other than money market funds.

²⁸⁵ Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) [69 FR 11243, 11254 (Mar. 9, 2004)] (“Quarterly Portfolio Disclosure Adopting Release”); see also Proposing Release, *supra* footnote 10, at section II.H.2.b (summarizing the history and purpose of the requirement).

analysis” or “MD&A”—and to provide an opportunity to look at a company “through the eyes of management.”²⁸⁶

We proposed to amend Form N-2 to extend the MDFP disclosure requirements to all registered CEFs.²⁸⁷ Specifically, we proposed to require that registered CEFs:

- Discuss the factors that materially affected their performance during the most recently completed fiscal year, including the relevant market conditions and the investment strategies and techniques used by the fund;
- Provide a line graph comparing the initial and subsequent account values at the end of each of the most recently completed ten fiscal years of the fund and a table of the fund’s total returns for the 1-, 5-, and 10-year periods as of the last day of the fund’s most recent fiscal year; and
- Discuss the effect of any policy or practice of maintaining a specified level of distributions to shareholders on the fund’s investment strategies and per share NAV during the last fiscal year, as well as the extent to which the registrant’s distribution policy resulted in distributions of capital.

Commenters that addressed this aspect of the proposal supported it.²⁸⁸ Because we continue to believe that investors in these funds—like investors in mutual funds, ETFs,

²⁸⁶ Disclosure and Analysis of Mutual Fund Performance Information; Portfolio Manager Disclosure, Investment Company Act Release No. 17294 (Jan. 8, 1990) [55 FR 1460, 1462 (Jan. 16, 1990)].

²⁸⁷ Proposing Release, *supra* footnote 10, at section II.H.2.b.

²⁸⁸ ABA Comment Letter; ICI Comment Letter; Invesco Comment Letter; TIAA Comment Letter. One commenter stated that MDFP information can assist investors with understanding fund performance and market conditions over the reporting period from the fund manager’s perspective. ICI Comment Letter. In the Proposing Release, we asked whether, instead of requiring MDFP information for registered CEFs, we should require such funds to disclose MD&A information like BDCs and operating companies.

BDCs, and operating companies—would benefit from annual report disclosure that aids them in assessing the fund’s performance over the prior year and that complements other information in the report,²⁸⁹ we are adopting this requirement as proposed.²⁹⁰

c. *Financial Highlights*

We are amending Form N-2, as proposed, to require that a BDC, like other affected funds, include financial highlights disclosure summarizing its financial statements in its registration statement and annual report.²⁹¹ Today, BDCs include their full financial statements in their prospectus, and we currently permit BDCs to omit financial highlights disclosure summarizing these financial statements.²⁹² We understand, however, that it is generally market practice for BDCs to include financial highlights disclosure. This information is arranged to allow investors to trace the operating performance of a fund on a per share basis from the fund’s beginning NAV to its ending NAV so that investors may understand the sources of changes.²⁹³ It summarizes the

Proposing Release, *supra* footnote 10, at section II.H.2.b. A few commenters expressly opposed this change to the proposed requirement compared with the MDFP requirement in Form N-1A. ABA Comment Letter; ICI Comment Letter; Invesco Comment Letter; TIAA Comment Letter.

²⁸⁹ Proposing Release, *supra* footnote 10, at section II.H.2.b.

²⁹⁰ New Instruction 4.g to Item 24 of amended Form N-2.

²⁹¹ To effectuate this change, we are removing and reserving Instruction 1 to Item 4, and adding new Instruction 10 to Item 24 of amended Form N-2. Currently, only registered CEFs are required to include financial highlights in their registration statements, and annual reports to shareholders. *See* Instruction 1 to Item 4.1 (limiting the applicability of Item 4.1 in the case of BDCs), and Instruction 4.b (requiring the financial highlights required by Item 4.1 to be included in the annual report) to Item 24 of current Form N 2.

²⁹² General Instruction 1 to Item 4.1 of current Form N-2.

²⁹³ Registration Form for Closed-End Management Investment Companies, Investment Company Act Release No. 19115 (Nov. 20, 1992) [57 FR 56826, 56829 (Dec. 1, 1992)].

financial statements.²⁹⁴ Commenters did not address this aspect of the proposal. Because we continue to believe that investors will benefit from required disclosure summarizing a BDC's financial statements,²⁹⁵ we are adopting this change as proposed.²⁹⁶

d. *Unresolved Staff Comments*

We are also adopting, as proposed, a requirement that affected funds filing a short-form registration statement disclose outstanding staff comments that remain unresolved for a substantial period of time and that the fund believes are material.²⁹⁷ As part of the Commission's 2005 securities offering reforms for operating companies, the Commission adopted a similar provision for operating companies, recognizing that the new rules could eliminate some incentives issuers may have to timely resolve any staff

²⁹⁴ Registration Form for Closed-End Management Investment Companies, Investment Company Act Release No. 17091 (July 28, 1989) [54 FR 32993, 32997 (Aug. 11, 1989)].

²⁹⁵ See Proposing Release, *supra* footnote 10, at section II.H.2.c.

²⁹⁶ See Instruction 1 to Item 4.1 of amended Form N-2 (removed and reserved); new Instruction 10 to Item 24 of amended Form N-2.

In addition, we are adopting, as proposed, a conforming change to the financial highlights requirements to eliminate the current requirement that registered CEFs specify the average commission rate paid. See Item 4.1 of amended Form N-2 (removing Instructions 18-19 from Item 4.1). Although this information is currently required for registered CEFs, the Commission previously eliminated a similar requirement from Item 13(a) of Form N-1A for open-end funds registered on Form N-1A. Item 4.1.1 of Form N-2; Instructions 18-19 to Item 4.1 of Form N-2; Item 13(a) of Form N-1A; See Registration Form Used by Open-End Management Investment Companies, Investment Company Act Release No. 23064 (Mar. 13, 1998) [63 FR 13916, 13936 (Mar. 23, 1998)]. The Commission reached this determination after receiving and considering public comment arguing that these rates are technical information that typical investors are unable to understand. *Id.* We continue to believe that the same considerations supporting elimination of this requirement from Form N-1A also apply to registered CEFs.

²⁹⁷ See new Instruction 4.h.(4) to Item 24 of amended Form N-2. Specifically, such funds will be required to disclose the substance of any unresolved written staff comments that the fund believes are material and that were received not less than 180 days before the end of the fiscal period to which the annual report relates. *Id.*

comments on their Exchange Act reports.²⁹⁸ The Commission observed, in connection with this proposed requirement, that this rulemaking similarly may eliminate some incentives for certain affected funds to timely resolve staff comments.

Two commenters recommended that the Commission not adopt this proposed requirement.²⁹⁹ One commenter stated that the proposed requirement would be inconsistent with Commission efforts to simplify disclosure and focus on key information important to investors.³⁰⁰ We believe, however, that, because the requirement only relates to comments that the issuer believes are material and because they will relate to information about which the issuer and the Commission staff disagree, the disclosure of the comments is likely to be information that is important to investors. This commenter also stated that the requirement would be at odds with recent statements about the non-binding nature of staff guidance. However, the provision will not make the substance of statements by staff in their comments binding upon the public or the Commission. Rather, the Commission, by rule, will require affected funds to inform investors about their disagreements with the staff in connection with the staff's review of disclosures.

Two commenters expressed concern that differing views about whether a particular comment is “material” or “unresolved” could result in inconsistent disclosure among different funds in similar circumstances.³⁰¹ We recognize that analysis of whether a particular written comment must be disclosed may involve some subjective judgment

²⁹⁸ See generally Proposing Release, *supra* footnote 10, at section II.H.2.d.

²⁹⁹ ICI Comment Letter; Invesco Comment Letter. One commenter opposed extending the proposed requirement to additional categories of issuers, including mutual funds and ETFs. ICI Comment Letter.

³⁰⁰ ICI Comment Letter.

³⁰¹ ICI Comment Letter; Invesco Comment Letter.

regarding specific facts and circumstances. Many disclosure requirements inherently involve some subjective judgment and can result in some variance in the disclosure provided by different funds.

These commenters also suggested some alternatives to the proposed requirement. For example, one commenter suggested that the Commission, rather than require disclosure of material unresolved staff comments, issue a stop order to prevent an offering from going forward if necessary.³⁰² We believe that it is more appropriate to preserve an intermediate approach for the Commission, in appropriate circumstances, to allow an offering to proceed while informing investors and others about material disagreements between the issuer and the Commission's staff, so that investors can make an informed judgment about the disagreement. Another commenter recommended, as an alternative, that the Commission publish its staff's comments and issuer responses.³⁰³ We believe, however, that investors and other interested persons are more likely to see and read disclosure of material, unresolved staff comments if they appear in a fund's annual report than comments and responses published separately.³⁰⁴

In addition, this requirement parallels the current requirement for operating companies that use the offering rules.³⁰⁵ These commenters, however, provide no basis

³⁰² ICI Comment Letter.

³⁰³ Invesco Comment Letter.

³⁰⁴ Adopting this requirement does not prevent the Commission from also publishing staff comments or issuer responses, which may supplement this required disclosure. For example, publishing staff comments and issuer responses, which the staff currently disseminates using the EDGAR system, may also inform investors and the market about comments that are promptly resolved. *See* Press Release No. 2004-89; SEC Staff to Publicly Release Comment Letters and Responses (June 24, 2004) *available at* <https://www.sec.gov/news/press/2004-89.htm>.

³⁰⁵ Proposing Release, *supra* footnote 10, at section II.H.2.d.

for distinguishing affected funds from those operating companies that are already subject to the requirement. After considering comments received, and because we continue to believe that these disclosure requirements will provide an incentive for affected funds to timely resolve staff comments and that investors may value information about areas of disagreement that the issuer believes are material, we are adopting the requirement as proposed.³⁰⁶

3. *Current Reporting Requirements for Affected Funds*

As discussed in the Proposing Release, operating companies and BDCs are required to promptly report certain events on Form 8-K, while registered CEFs generally are not required to report on Form 8-K. The Commission proposed to require registered CEFs to report information on Form 8-K to enhance parity with operating companies and BDCs, to improve information for investors and the market, and to recognize the role of Form 8-K reporting in the 2005 offering reform amendments.³⁰⁷ It also proposed to amend Form 8-K to: (1) add two new reporting items for affected funds on material changes to investment objectives or policies and material write-downs of significant investments, and (2) adapt the existing reporting requirements and instructions to affected funds. As discussed in more detail below, in response to comments, we are not adopting

³⁰⁶ New Instruction 4.h.(4) to Item 24 of amended Form N-2.

³⁰⁷ See Proposing Release, *supra* footnote 10, at section II.H.3.a. See also Securities Offering Reform Adopting Release, *supra* footnote 5, at 44726 (describing the availability of ongoing information about a public issuer and its securities, including current information on Form 8-K, as an important component of the offering reforms the Commission adopted for operating companies) and 44730 (declining to make the benefits of being a reporting issuer, seasoned issuer, or WKSI available to voluntary filers and stating that “such issuers should be required to register under the Exchange Act, and thus become subject to all of the results of registration for all purposes, if they wish to avail themselves of” these benefits).

the proposed Form 8-K amendments.³⁰⁸ However, we will continue to consider current reporting more generally as part of our ongoing review of the effectiveness of investment company disclosure.

a. *Form 8-K Reporting for Registered CEFs*

The Commission proposed to require registered CEFs that are reporting companies under section 13(a) or section 15(d) of the Exchange Act to report current information on Form 8-K. Commenters generally opposed a Form 8-K reporting requirement for registered CEFs.³⁰⁹ Commenters suggested that registered CEFs should not be subject to Form 8-K reporting requirements because the commenters believe that: (1) existing registered CEF disclosure is sufficient;³¹⁰ (2) Form 8-K reporting would be costly for registered CEFs;³¹¹ (3) parity with operating companies and BDCs is unnecessary in the context of Form 8-K reporting;³¹² and (4) investors, analysts, and regulators have not previously indicated that registered CEF disclosure is inadequate.³¹³

³⁰⁸ BDCs will continue to be required to report on Form 8-K, as they do today.

³⁰⁹ See ABA Comment Letter; ICI Comment Letter; and Invesco Comment Letter.

³¹⁰ See ABA Comment Letter; ICI Comment Letter; and Invesco Comment Letter.

³¹¹ See ABA Comment Letter (stating that the cost and administrative burden of Form 8-K reporting would outweigh the benefits discussed in the Proposing Release of establishing a uniform and centralized current reporting regime for registered CEFs); ICI Comment Letter (suggesting that registered CEFs already have a greater regulatory filing burden than operating companies because they report on Forms N-CEN, N-PORT, and N-PX); and Invesco Comment Letter.

³¹² See ICI Comment Letter (suggesting there are reasons for registered CEFs to be subject to a different disclosure regime than operating companies, including that registered CEFs are highly regulated under the Investment Company Act).

³¹³ See ABA Comment Letter and ICI Comment Letter. *But see* White Comment Letter (stating that there should always be a current document where an investor can see a fund's strategy, risks, performance, and costs each year and suggesting that investors should receive notices of any material changes on a more timely basis); Proposing Release, *supra* footnote 10, at n.323 (citing a similar comment letter the Commission received in response to the Investor Experience Request for Comment).

With respect to existing disclosure practices, commenters stated that registered CEFs already provide material updates through other required or voluntary mechanisms (e.g., prospectus supplements, press releases, shareholder reports, voluntary Form 8-K filings, and website disclosure) that result in adequate and timely disclosure of information to investors.³¹⁴ One commenter suggested that registered CEFs would be unlikely to provide meaningful new information under Form 8-K beyond what they already disclose under other regulatory requirements.³¹⁵ Two commenters expressed concern that Form 8-K reporting may not timely inform investors about important fund events.³¹⁶ One of these commenters suggested that fund investors are more likely to receive timely information through a registered CEF's typical practice of issuing a press release about an important event, posting the press release to its website, and including information about the event in its next shareholder report.³¹⁷

Although they opposed a new Form 8-K reporting requirement, a few commenters suggested alternative approaches if we were to require registered CEFs to report on Form 8-K. One commenter suggested that, if the Commission requires registered CEFs to

³¹⁴ See ABA Comment Letter; ICI Comment Letter; and Invesco Comment Letter. As discussed in the Proposing Release, listed registered CEFs may disclose certain information on Form 8-K to comply with exchange requirements for listed company disclosure, although there are other mechanisms they may use to disclose the information (e.g., press releases). See Proposing Release, *supra* footnote 10, at section II.H.3.a. Two commenters pointed to these requirements in support of their argument that existing disclosure is adequate. ABA Comment Letter and Invesco Comment Letter.

³¹⁵ See ABA Comment Letter (stating that Form 8-K is largely duplicative of information that listed registered CEFs disclose in press releases in accordance with exchange rules and that continuously-offered registered CEFs disclose in prospectus supplements or post-effective amendments under SEC rules).

³¹⁶ See Invesco Comment Letter and White Comment Letter.

³¹⁷ See Invesco Comment Letter.

report on Form 8-K, we should require them to report only a subset of Form 8-K items.³¹⁸ Another commenter suggested that, rather than require registered CEFs to report on Form 8-K, we could require listed registered CEFs to file press releases containing material information on Form 8-K, similar to how continuously-offered registered CEFs file prospectus supplements on EDGAR.³¹⁹ Additionally, one commenter suggested that we require registered CEFs to more directly notify investors about material fund changes and stated that Form 8-K filings would not provide appropriate notice to a fund's investors.³²⁰

As we recognized in the Proposing Release and as noted by commenters, there are differences between the types of events that are important to registered CEFs and the types of events that are important to operating companies.³²¹ Moreover, for those Form 8-K events that would be relevant to registered CEFs, we recognize that these funds currently may disclose substantially similar information through other mechanisms, such as prospectus supplements, post-effective amendments, and press releases. We also are sensitive to commenters' concerns about the burdens to registered CEFs associated with a new Form 8-K reporting requirement, particularly for those registered CEFs that will not qualify as WKSIs or be eligible to file short-form registration statements under the amendments we are adopting.

³¹⁸ See ICI Comment Letter.

³¹⁹ See ABA Comment Letter.

³²⁰ See White Comment Letter.

³²¹ See Proposing Release, *supra* footnote 10, at text following n.260; ABA Comment Letter (suggesting that, as a general matter, registered CEFs tend to have a simpler and more transparent business than operating companies (*e.g.*, many listed registered CEFs publish their NAVs on a daily or weekly basis)); ICI Comment Letter (stating that, for example, disclosure about departures of fund officers on Form 8-K would not be meaningful for registered CEFs because fund officers generally are not actively involved in the day-to-day management of a fund's portfolio).

As a result of these considerations, we are persuaded that a new Form 8-K reporting requirement for registered CEFs may not substantially improve the flow of important current information to investors and the market and, as a result, would not justify the additional burdens associated with Form 8-K reporting. Therefore, we are not adopting the proposed Form 8-K reporting requirements for registered CEFs.³²² However, we will continue to consider whether more current reporting requirements that are tailored to registered CEFs, or to registered investment companies more generally, may be appropriate in connection with our continuing review of investment company disclosure effectiveness.³²³

Although registered CEFs generally will not be required to file reports on Form 8-K, a registered CEF that is eligible to file a short-form registration statement may voluntarily file information on Form 8-K to forward incorporate that information into its registration statement or for other purposes (*e.g.*, to publicly disseminate information under exchange rules, as applicable).³²⁴ These voluntary Form 8-K filings will not affect

³²² In addition to the proposed amendments to Form 8-K, we also are not adopting the associated proposed amendments to 17 CFR 240.13a-11 and 240.15d-11 (Exchange Act rule 13a-11 and rule 15d-11) because the proposed amendments to those rules were only necessary to carry out the proposal to require registered CEFs to report on Form 8-K.

³²³ *See* Investor Experience Request for Comment, *supra* footnote 274. *See also supra* footnote 313.

³²⁴ Although registered CEFs are only required to file Form 8-K reports under Item 5.04 (Temporary Suspension of Trading Under Registrant’s Employee Benefit Plans), as applicable, other Form 8-K reports they file on a voluntary basis will be “filed pursuant to Section 13(a) or 15(d) of the Exchange Act” for purposes of the incorporation by reference instructions in Form N-2 that apply to funds that are eligible to file short-form registration statements. *See* General Instruction F.3 of amended Form N-2; Exchange Act rule 13a-11(b)(1) and rule 15d-11(b)(1). Information a registered CEF furnishes on a Form 8-K report will not be incorporated by reference into the fund’s registration statement under this instruction. This is consistent with the incorporation by reference regime for operating companies on Form S-3, where information voluntarily filed on Form 8-K (*e.g.*, under Item 8.01 (Other Events)) is incorporated by reference into the

a registered CEF's ability to qualify as a seasoned fund. This is because the requirements to be current and timely with respect to the fund's Exchange Act and Investment Company Act reports only apply to materials a fund is required to file.³²⁵

b. *Other Proposed Amendments to Form 8-K*

We are similarly not adopting the other proposed amendments to Form 8-K, including the two proposed reporting items regarding material changes to investment objectives or policies and material write-downs.³²⁶ Although the two proposed reporting items also would have applied to BDCs, we are not adopting these current reporting requirements for any affected funds. Commenters generally opposed these proposed reporting items and argued that existing disclosure is adequate.³²⁷ We will continue to consider the adequacy of affected fund disclosure, including the availability and timeliness of information about material changes in investment objectives or policies and material write-downs of significant investments, as part of our ongoing review of the effectiveness of investment company disclosure.³²⁸ Rather than establish new current reporting requirements for affected funds on a piecemeal basis in this release, we believe

company's registration statement while furnished Form 8-K reports are not incorporated by reference. *See also supra* footnote 314 (discussing exchange rules requiring listed registered CEFs to timely disclose certain information to the public).

³²⁵ *See* new General Instruction A.2 of amended Form N-2; General Instruction I.A.3 of Form S-3.

³²⁶ *See* Proposing Release, *supra* footnote 10, at section II.H.3.b. Since we are not adopting the proposed items to Form 8-K, we also are not amending the safe harbor in Exchange Act rules 13a-11 and 15d-11 to include those items. *See* Proposing Release, *supra* footnote 10, at n.289.

³²⁷ *See* ABA Comment Letter (suggesting that neither of the proposed items would provide additional important information); ACC Comment Letter (opposing the proposed material write-down item for BDCs in particular); CBD Comment Letter.

³²⁸ *See* Investor Experience Request for Comment, *supra* footnote 274.

it is more appropriate to consider current reporting in connection with a broader, systematic review of investment company disclosure.

4. *Online Availability of Information Incorporated by Reference*

We are adopting, as proposed, amendments to Form N-2's General Instruction for Incorporation by Reference.³²⁹ All registered CEFs and BDCs currently can backward incorporate their financial information from previously-filed Exchange Act reports into the prospectus or SAI. However, Form N-2 currently requires that a fund provide to new purchasers a copy of all previously-filed materials that the fund incorporated by reference into the prospectus and/or SAI.³³⁰ Under the amendments, and as proposed, we are removing the requirement that a fund deliver to new investors information that it has incorporated by reference into the prospectus or SAI.³³¹ These amendments will allow the fund to make its prospectus, SAI, and the incorporated materials readily available and accessible on a website identified in the fund's prospectus and SAI.³³² Affected funds will

³²⁹ See General Instruction F of amended Form N-2.

³³⁰ See General Instruction F.3 of amended Form N-2 (requiring the material incorporated by reference to be provided with the prospectus and/or the SAI to each person to whom the prospectus and/or the SAI is sent or given, unless the person holds securities of the fund and otherwise has received a copy of the material); *see also* Proposing Release, *supra* footnote 10, at text accompanying nn.309–311.

³³¹ We also are amending Form N-2's current disclosure requirements for incorporation by reference, by replacing these current instructions with a new General Instruction F.4, which largely mirrors the disclosure requirements in Item 12(c) of Form S-3. The new instruction streamlines—but does not substantively change (other than the website disclosure provision discussed below) — the disclosure requirements for incorporation by reference in current Form N-2.

³³² New General Instruction F.4.a of amended Form N-2; *cf.* General Instruction VII.F of Form S-1; General Instruction F.4.b(5) of amended Form N-2; *cf.* Item 12(c)(1)(v) of Form S-1. We are amending current General Instruction F.3 in its entirety, and moving its requirement directing a fund to state in the prospectus and SAI that it will furnish, without charge, a copy of the incorporated materials on request, to new General Instruction F.4.b of amended Form N-2. We also are conforming certain incorporation by reference provisions in Form N-2 to mirror parallel provisions in Form N-1A. *See new*

also be required to provide incorporated materials upon request free of charge. We believe this approach will improve the online accessibility of the prospectus and SAI and any documents that are incorporated by reference for investors that wish to review such information online, and will facilitate the efficient use of incorporation by reference by affected funds.³³³ The only commenter who addressed this approach supported it,³³⁴ and we are adopting it as proposed.

5. Amendments to Certain Registered CEFs' Annual Report Disclosure

We are adopting, largely as proposed, amendments to rule 8b-16(b) that are designed to allow investors in registered CEFs that rely on the rule to more easily identify and understand key information about their investments.³³⁵ Although rule 8b-16(a) generally requires registered investment companies to update their registration statements annually, rule 8b-16(b) currently allows registered CEFs to forgo an annual update provided that they disclose in their annual reports certain key changes that have occurred during the prior year.³³⁶ Disclosures that describe a specific change to a fund strategy or risk may not have sufficient context to allow investors to understand the effect of such

General Instruction F.2.a–c of amended Form N-2; *cf.* General Instruction D.1.(a)-(c) of Form N-1A.

³³³ See Proposing Release, *supra* footnote 10, at nn.313–317 and accompanying text.

³³⁴ See SIFMA Comment Letter.

³³⁵ See amended Investment Company Act rule 8b-16.

³³⁶ Current rule 8b-16(b) (requiring disclosure in the annual report of information that repeats or updates certain key prospectus disclosures, specifically: (1) information about the fund's dividend reinvestment plan; (2) material changes in the fund's investment objectives or policies that have not been approved by shareholders; (3) any change concerning the fund's control provisions that has not been approved by shareholders; (4) material changes in the principal risk factors associated with an investment in the fund; and (5) any portfolio manager changes). Except for information about the fund's dividend reinvestment plan (which requires a complete description of the plan), the fund must only disclose changes that have occurred during the year covered by the annual report.

change, potentially leaving shareholders to have to look at a series of documents—from the fund’s prospectus, which could be several years old, plus each subsequent annual report—to understand certain key information about the fund, such as its current investment strategy or principal risk factors.³³⁷ Accordingly, we proposed to require funds that rely on rule 8b-16(b) to describe any changes in enough detail to allow investors to understand each change and how it may affect the fund.³³⁸ For example, as stated in the Proposing Release, to the extent a fund’s principal investment objectives, investment policies or principal risks have changed, the fund should describe its objectives, policies or risks before and after the change.³³⁹

The one commenter to address this aspect of the proposal stated that a closed-end fund’s annual report should include a full description of the fund’s current objectives, strategies and risks, as many closed-end funds do not maintain a current registration statement, which would otherwise include this information.³⁴⁰ One commenter described difficulties faced by investors in determining an affected fund’s current investment

³³⁷ See Proposing Release, *supra* footnote 10, at n.323 and accompanying text. See also Investor Experience Request for Comment, *supra* footnote 274, in which we sought input from individual investors on how to enhance fund disclosures.

³³⁸ See Proposing Release, *supra* footnote 10, at 136.

³³⁹ *Id.*

³⁴⁰ See Peres Comment Letter (noting that “[i]f there is a change to an objective, strategy or risk in the past year, they describe the change in the annual report. However, there is no complete description of a fund’s current objectives, strategies and risks. To learn this information, an investor would need to look at the fund’s most recent registration statement (which could be from decades ago) and review each annual report since that time.”).

The Proposing Release requested comment on whether we should adopt different disclosure requirements for funds that rely on rule 8b-16, including whether we should require such funds to summarize in their annual reports certain key information that would be required in a current prospectus. See Proposing Release, *supra* footnote 10, at section II.H.5.

objectives and policies, with another requesting a single location where such key information could be found.³⁴¹

As proposed, we are requiring funds that rely on rule 8b-16(b) to describe certain key changes in enough detail to allow investors to understand each change and how it may affect the fund.³⁴² We believe that in giving context for a change to one or more of the required disclosures, it is particularly effective for a fund to describe current information regarding related disclosures, as this approach may facilitate a more complete understanding of how a change to one aspect of the fund impacts the fund more broadly. Such disclosures must be prefaced with a legend clarifying that the disclosures provide only a summary of certain changes that have occurred in the past year, which may not reflect all of the changes that have occurred since the investor purchased the fund.³⁴³

In response to comments and in a change from the proposal, we also are requiring any affected fund that relies on rule 8b-16(b) to describe the fund's current investment objectives, investment policies, and principal risks in its annual report.³⁴⁴ These key disclosures must be provided, even if there were no changes in the past year. This will ensure that investors can access in a single location current information about key aspects

³⁴¹ See ABA Comment Letter (“[M]any Affected Funds were organized many years ago, and since the relevant information may be spread among the prospectus used for the Affected Fund's most recent public offering (which may have taken place years or even decades ago), proxy statements and reports to shareholders spanning many years, it can be a burdensome undertaking to piece such information together.”); see also Dale White Comment Letter (“There should always be a current document where an investor can see a fund's strategy, risks, performance, and costs each year.”).

³⁴² See paragraph (e) of amended Investment Company Act rule 8b-16.

³⁴³ *Id.*

³⁴⁴ See amended rule 8b-16(b)(2), (4).

of the fund in which they invest. We believe that funds could increase the effectiveness of this disclosure by presenting it concisely, in accordance with “plain English” principles for organization, wording, and design. We similarly encourage funds to tailor their disclosures to how the fund operates rather than rely on generic, standard disclosures about the fund’s investment policies and risks. Finally, we encourage funds to describe principal risks in order of importance, with most significant risks appearing first (*i.e.*, not listing risks in alphabetical order).

J. Effective and Compliance Dates

Effective Dates. The final rule will become effective on August 1, 2020. While we proposed that the rule would become effective 60 days from publication in the Federal Register, we are establishing a fixed date so that the amendments to certain rules and forms adopted pursuant to the Variable Contract Summary Prospectus Adopting Release will be effective prior to the amendments to the same rules and forms adopted herein.³⁴⁵ The August 1, 2020 effective date will apply to all aspects of the final rule, except for the following:

- *Rules 23c-3, 24f-2, and Form 24F-2.* The amendments to rules 23c-3, 24f-2, and Form 24F-2³⁴⁶ will become effective August 1, 2021 (one year after other aspects of the final rule take effect, as proposed). One commenter suggested making the amendments to rules 23c-3 and 24f-2 immediately effective for new interval funds so they can pay registration fees based on the net issuance of shares sold

³⁴⁵ See Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts, Investment Company Act Release No. 33814 (March 11, 2020) (“Variable Contract Summary Prospectus Adopting Release”).

³⁴⁶ See *supra* section II.G.

during their initial fiscal year, and allow existing funds to use the new payment method as soon as possible thereafter.³⁴⁷ While we agree that interval funds should be able to calculate fees on Form 24F-2 as soon as possible, as proposed, the amendments to rules 23c-3 and 24f-2 will become effective one year after the final rule's effective date to provide sufficient time to modify the Commission's systems to accept such filings from interval funds.³⁴⁸

- *Rules 456 and 457 and Forms S-1, S-3, F-1 and F-3*: The amendments to rules 456 and 457 and Forms S-1, S-3, F-1 and F-3 under the Securities Act will become effective August 1, 2021.

Compliance Dates. We are adopting compliance dates for certain new requirements to provide a transition period after the effective date of the final rule.

- *MDFP.* As proposed, an annual report filed by a registered CEF one year or more after the effective date of the final rule will be required to include the MDFP disclosures.³⁴⁹ We received no comments on this proposed compliance period. Affected funds must comply with this requirement by August 1, 2021.
- *Structured Data Requirements (Financial Statement, Cover Page, and Prospectus Information).* We proposed that all affected funds subject to the Inline XBRL structured data reporting requirements for financial statement, registration statement cover page, and prospectus information that are eligible to file a short-

³⁴⁷ See ICI Comment Letter.

³⁴⁸ To facilitate the transition to calculating fees on Form 24F-2, an interval fund's fee calculation should exclude excess shares that were registered under the fund's last registration statement on Form N-2 that remain unsold prior to the effectiveness of rule 24f-2 as applied to interval funds.

³⁴⁹ See *supra* section II.H.2.b.

form registration statement would be required to comply with those provisions 18 months after the effective date, and all other affected funds to comply 24 months after the effective date. The one commenter who addressed this aspect of the release recommended that any new Inline XBRL requirements have a compliance date later than that required for open-end funds.³⁵⁰ We are extending the compliance period by an additional six months to align more closely with the Inline XBRL compliance periods for other fund registrants.³⁵¹ Accordingly, affected funds that are eligible to file a short-form registration statement will be required to comply with those provisions 24 months after the effective date, or August 1, 2022. All other affected funds subject to these requirements must comply 30 months after the effective date, or February 1, 2023. Affected funds will be permitted to file in Inline XBRL prior to the compliance date once EDGAR has been modified to accept submissions in Inline XBRL for all forms subject to the amendments, which is anticipated to be March 2021. Notice of EDGAR system readiness to accept filings in Inline XBRL will be provided in a manner similar to notices of taxonomy updates and EDGAR Filer Manual updates.

- *Structured Data Requirements (Form 24F-2)*. As proposed, all filers on Form 24F-2 (including existing Form 24F-2 filers, such as open-end funds and

³⁵⁰ See ICI Comment Letter (citing Inline XBRL Adopting Release, *supra* footnote 250, which requires open-end funds to comply with the Inline XBRL requirements on September 17, 2020 (24 months post-effective date) for “large fund groups” and September 17, 2021 (36 months post-effective date) for “small fund groups”).

³⁵¹ *Id.*; see also Variable Contract Summary Prospectus Adopting Release, *supra* footnote 345 (requiring variable contracts to comply with the Inline XBRL requirements on January 1, 2023 (30 months post-effective date)).

unit investment trusts, as well as interval funds) will be required to file reports on the form in an XML structured data format 18 months after the effective date, or February 1, 2022.³⁵² The one commenter who addressed the proposed 18-month transition period supported it.³⁵³

III. ECONOMIC ANALYSIS

We are adopting amendments to our rules designed to carry out the requirements of section 803 of the BDC Act and section 509 of the Registered CEF Act and tailor the disclosure and regulatory framework for affected funds in light of the amendments to the offering rules applicable to them. Currently, affected funds face regulatory impediments to capital formation as they are not able to use the flexible and less costly offering process that operating companies use when conducting registered securities offerings. This may hinder affected funds' ability to raise capital, take advantage of favorable market conditions as operating companies do, and enjoy lower cost of capital and lower offering costs. Additionally, because of existing rules, affected funds generally are unable to communicate about an offering before a registration statement is filed, and their post-filing communications are subject to prospectus liability under section 12 of the Securities Act (or must be accompanied or preceded by the statutory prospectus). The final rule will provide incremental flexibility to funds in their communications, which may increase the flow of information to investors. As discussed in detail above, the final

³⁵² See *supra* section II.H.1.d.

³⁵³ See ICI Comment Letter.

rule will affect numerous distinct aspects of how our securities offering and communications rules apply to affected funds.³⁵⁴

A. Introduction and Baseline

We are sensitive to the economic effects that may result from the final rule, including the benefits, costs, and the effects on efficiency, competition, and capital formation. Section 3(f) of the Exchange Act, section 2(b) of the Securities Act, and section 2(c) of the Investment Company Act state that when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest, we must consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. Additionally, section 23(a)(2) of the Exchange Act requires us, when making rules or regulations under the Exchange Act, to consider, among other matters, the impact that any such rule or regulation would have on competition and states that the Commission shall not adopt any such rule or regulation which would impose a burden on competition that is not necessary or appropriate in furtherance of the Exchange Act.

We have considered the potential costs and benefits that would result from the final rule, as well as the potential effects on efficiency, competition, and capital formation. Many of the potential economic effects of the final rule would stem from the statutory mandates, while others would stem from the discretion we are exercising. We discuss the potential economic effects of the amendments to implement the statutory mandates in sections III.B and III.C. We considered certain alternatives to our approach

³⁵⁴ See *supra* section I for summary of final rule.

to implementing the statutory mandates, as discussed in section III.D. We are also adopting certain other amendments to tailor affected funds' disclosure and regulatory framework. We discuss the potential economic effects of these discretionary amendments, as well as reasonable alternatives to these provisions, in section III.E. Where possible, we have attempted to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from the final rule. In some cases, however, we are unable to quantify the economic effects because we lack the information necessary to provide a reasonable and reliable estimate.

The baseline we use to analyze the potential effects of the final rule is the current set of legal requirements and market practices. The final rule likely will have a significant impact on the security offering requirements and disclosure practices of affected funds. The overall magnitude of the benefits and the costs associated with the final rule will depend on many factors, including the number of affected funds that rely on the final rule. We recognize that some affected funds would not satisfy the conditions in certain of the amendments (*e.g.*, those limited to WKSIs or funds that file a short-form registration statement on Form N-2), and other affected funds may satisfy the conditions but choose not to rely on the final rule. The discussion below describes our understanding of the markets and issuers that will be affected by the final rule.

1. *Number of Affected Funds*

The final rule will affect BDCs and registered CEFs. As of June 30, 2019, there were 791 affected funds, including 105 BDCs and 686 registered CEFs. To estimate the number of BDCs, we use data from Form 10-K and Form 10-Q filings as of June 30,

2019, the latest data available.³⁵⁵ We identify 51 listed BDCs and 54 unlisted BDCs. The average net assets of the listed BDCs is approximately \$820 million, and the average of their total assets is \$1.5 billion. Based on trading data as of June 30, 2019, 44 of the listed BDCs have public float greater than \$75 million (*i.e.*, one of the transaction requirement thresholds for primary offerings under the short-form registration instruction) and 15 of those BDCs have public float greater than \$700 million (*i.e.*, the WKSI public float threshold).³⁵⁶

We use data from Morningstar and SEC filings to estimate the number of registered CEFs.³⁵⁷ We identify 497 registered CEFs that were listed on an exchange as of June 30, 2019, including 1 interval fund. There were 189 unlisted registered CEFs as of June 30, 2019, including 60 interval funds. The average net assets of the listed registered CEFs is approximately \$551 million, while the average net assets of the

³⁵⁵ The estimated number of BDCs includes BDCs that have not registered a securities offering on Form N-2. Certain of our amendments, such as the requirement to tag certain Form N-2 prospectus disclosure items in Inline XBRL, will only apply to affected funds that have filed a registration statement on Form N-2. As a result, our quantitative estimates of the costs and paperwork burdens of these amendments with respect to BDCs may be over-estimates in certain respects.

³⁵⁶ The data (as of June 30, 2019) on prices and shares outstanding, which are used to calculate the public float, is taken from the Center for Research of Securities Prices (“CRSP”) database. CRSP data on shares outstanding includes all publicly held shares.

³⁵⁷ The estimated number of registered CEFs includes registered CEFs that have not registered a securities offering under the Securities Act. Certain of our amendments, such as the structured data requirements, will apply somewhat differently to these registered CEFs and may impose fewer burdens on them. For example, a registration statement that is filed under only the Investment Company Act is not required to include financial highlights information under Item 4 of Form N-2, while registered CEFs that file a registration statement under the Securities Act must disclose financial highlights information and tag that information in Inline XBRL. *See* General Instructions G and H of amended Form N-2. Thus, our quantitative estimates of the costs and paperwork burdens of certain of the amendments with respect to registered CEFs may be over-estimates in certain respects.

unlisted registered CEFs is approximately \$382 million.³⁵⁸ Based on trading data as of June 30, 2019, 455 of the listed registered CEFs have public float greater than \$75 million, and 85 of those funds have public float greater than \$700 million.³⁵⁹ Information about the types of offerings conducted by different categories of affected funds for the period of July 1, 2014 – June 30, 2019 is reflected in the below table.³⁶⁰

TABLE 3

Types of offerings	Offering statistics	Listed BDCs	Unlisted BDCs	Listed registered CEFs	Unlisted registered CEFs
Registered offerings	Number of offerings	113	24	26	137
	Total amount raised	\$12.2 bil	\$1.7 bil	\$5.2 bil	\$20.3 bil
	Average (median) offering amount	\$107.9 mil (\$60.0 mil)	\$7.8 mil (\$7.2 mil)	\$201.3 mil (\$103.8 mil)	\$176.3 mil (\$31.0 mil)
Regulation D offerings	Number of offerings	21	67	1	165
	Total amount raised	\$12.3 bil	\$9.1 bil	\$15.1 mil	\$7.5 bil
	Average (median) offering amount	\$584.7 mil (\$100 mil)	\$135.0 mil (\$50.0 mil)	\$15.1 mil (\$15.1 mil)	\$45.6 mil (\$6.1 mil)

As of September 2019, there were 7,995 mutual funds, 2,076 ETFs, and 4,758 UITs. Thus, together with the 791 affected funds, there is a total of 15,620 funds, affected and non-affected. This means that affected funds represent about 5.1% of the total number of funds. As of September 2019, mutual funds had approximately \$20,156 billion in assets, ETFs had approximately \$4,024 billion in assets, UITs had approximately \$76

³⁵⁸ The average of net assets of registered interval funds is \$520 million.

³⁵⁹ This includes the listed interval fund, which had public float of approximately \$73 million as of June 30, 2019. Data on prices and shares outstanding, which is used to calculate the public float, is taken from CRSP.

³⁶⁰ Data on registered offerings (initial public offerings, equity offerings by seasoned issuers, convertible debt offerings, and public debt offerings) for BDCs and listed registered CEFs is taken from Securities Data Corporation’s New Issues database (Thomson Financial). Data on Regulation D offerings was collected from all Form D filings (new filings and amendments) on EDGAR. Data on registered offerings for unlisted registered CEFs was collected from Form N-2 and Form N-CSR filings on EDGAR.

billion in assets, and affected funds had approximately \$459 billion in assets. Thus, affected funds represent about 1.8% of total investment company assets.

We use data from Morningstar and SEC filings to estimate the number of affected ETPs. We identify 68 such ETPs as of December 31, 2019.

2. *Current Securities Offering Requirements for Affected Funds*

The securities offering process for affected funds at present differs from that for operating companies. Affected funds register their securities offerings on Form N-2, while operating companies use other forms (*e.g.*, Form S-1 or Form S-3). As discussed in more detail above in sections II.B, II.C, and II.F, registered investment companies and BDCs are excluded from certain offering and communications rules available to operating companies.

Affected funds currently are expressly excluded from the WKSI definition. As a result, even if they would otherwise meet the WKSI definition, they are unable to, for example, file an automatic shelf registration statement or communicate about an offering before filing a registration statement.³⁶¹

Affected funds currently can conduct shelf offerings under rule 415(a)(1)(x) if they meet the applicable eligibility criteria for Form S-3, even though affected funds register their securities offerings on Form N-2. Affected funds conducting shelf offerings, however, currently experience certain burdens not faced by operating companies.³⁶² For example, affected funds conducting shelf offerings currently must file post-effective amendments to make certain updates to their registration statements, while operating

³⁶¹ See *supra* section II.C.

³⁶² See *supra* section II.B.1.

companies conducting shelf offerings may update their registration statements through forward incorporation by reference. As a result, affected funds can incur additional expense or delay for shelf offerings, which can affect the timing of their capital-raising. Similarly, different rules apply to affected fund communications as opposed to operating company communications.³⁶³ These differences can impose additional costs or constraints on affected funds or others because, for example, underwriters may be more familiar with the operating company rules. Further, affected funds currently are required to deliver a final prospectus to investors.³⁶⁴ Final prospectuses can be lengthy, particularly for BDCs because they generally do not take advantage of backward incorporation by reference currently permitted for certain financial and related information. For example, the median page length of prospectuses filed by listed BDCs is approximately 234 pages.³⁶⁵

3. *Current Disclosure Obligations of Affected Funds*

Affected funds differ in their periodic and current reporting obligations. Like operating companies, BDCs file annual reports with audited financials on Form 10-K, quarterly reports with unaudited financials on Form 10-Q, and current reports on Form 8-K. Registered CEFs file annual reports to shareholders with audited financials and semi-annual reports to shareholders with unaudited financials on Form N-CSR. Listed registered CEFs are also subject to exchange rules that require listed issuers to provide

³⁶³ See *supra* section II.F.

³⁶⁴ See *supra* section II.E.

³⁶⁵ This estimate is based on recent Form N-2 filings of the 49 listed BDCs. BDCs generally do not rely on existing Form N-2 backward incorporation by reference provisions because the form requires affected funds to provide to new purchasers a copy of all previously-filed materials that the fund incorporated by reference into the prospectus and/or SAI.

the market current information in response to certain events (*e.g.*, dividends announcements through a press release or report on Form 8-K).³⁶⁶

B. Potential Benefits Resulting from the Proposed Implementation of the Statutory Mandates

As discussed, the amendments to implement the statutory mandates are designed to provide securities offering parity between affected funds and operating companies and streamline the registration process for BDCs and registered CEFs, consistent with the BDC Act and the Registered CEF Act. We believe that the final rule will achieve this goal and consequently result in significant benefits in a number of areas, including by improving access to the public capital markets and possibly lowering the cost of capital by, among other things, modifying our rules related to affected funds' ability to qualify as WKSIs, to use the full shelf registration process, and to engage in certain communications during a registered offering.³⁶⁷ Additionally, as discussed below, we believe that the final rule will provide benefits to investors as well, including by increasing the flow of valuable information that could be available to investors to inform their investment decisions. Finally, we believe that the final rule will provide cost-saving options to affected fund issuers and underwriters.

1. *Improved Access to Capital and Lower Cost of Capital*

We anticipate that the final rule will facilitate capital formation and possibly lower the cost of capital by improving access to the public capital markets for affected funds. The rule is designed to reduce regulatory impediments to capital formation and

³⁶⁶ See *supra* footnote 314.

³⁶⁷ See also *infra* section III.E (discussing benefits associated with our discretionary rule amendments).

provide more flexibility to these funds to conduct registered securities offerings. The amount of flexibility accorded by the final rule will depend on the characteristics of the affected fund, consistent with our rules' treatment of similarly-situated operating companies. For example, and as explained below, certain affected funds like large listed BDCs and large listed registered CEFs are expected to benefit more from the final rule than unlisted BDCs and unlisted registered CEFs, including unlisted interval funds. The final rule will provide the most flexibility under the communications rules and the automatic shelf registration system to eligible WKSIs. Other affected funds, such as seasoned affected funds, also will benefit, albeit to a lesser degree, from the other revisions to the offering process and our communications rules.

a. *Benefits from WKSI Status*

The largest increase in capital formation and reduction in cost of capital that the final rule could generate will come from allowing affected funds to obtain WKSI status. Affected funds that qualify as WKSIs will enjoy additional flexibility compared to affected funds that are non-WKSIs.³⁶⁸ There are 100 affected funds (15 listed BDCs and 85 listed registered CEFs) that meet the \$700 million dollar public float criterion as of June 30, 2019.³⁶⁹ A shelf registration statement and any subsequent amendments filed by a WKSI are automatically effective upon filing. This flexibility will allow affected funds that qualify as WKSIs to promptly tap favorable conditions in the public market, to structure terms of securities on a real-time basis to accommodate investor demand, and to determine or change the plan of distribution in response to changing market conditions.

³⁶⁸ See *supra* section II.C.

³⁶⁹ See *supra* section III.A.1.

For example, because affected funds typically trade at a discount to their NAV,³⁷⁰ affected funds that are WKSIs will be able to act more quickly to raise capital when their shares are trading at a premium,³⁷¹ thus increasing the amount of capital raised and enhancing capital formation.

Additionally, WKSIs are not required to pay any registration fees at the time of filing a registration statement. They are only required to pay the registration filing fee at the time securities are taken down and sold off the shelf registration statement. This will provide additional flexibility to qualifying affected funds in that they need only incur such filing fees if and when they decide to proceed with an offering. The final rule may also lower the cost of capital because it will provide significant flexibility to affected funds that are WKSIs and their underwriters in marketing securities. The final communications rules will allow these funds to communicate at any time regarding an offering.

Requiring an affected fund to have at least \$700 million in public float to qualify as a WKSI will avoid providing affected funds with an advantage in the competition for capital over certain operating companies. For example, a lower public float threshold for affected funds would provide them with a competitive advantage over operating companies that may have similar characteristics to affected funds, such as listed REITs,

³⁷⁰ See, e.g., Jonathan B. Berk and Richard Stanton, *Managerial Ability, Compensation, and the Closed-End Fund Discount*, *Journal of Finance*, Vol. 62, 529–556 (2007); Jeffrey Pontiff, *Costly Arbitrage: Evidence from Closed-End Funds*, *Quarterly Journal of Economics*, Vol. 111, 1135–1151 (1996); Charles M. C. Lee, Andrei Shleifer, and Richard H. Thaler, *Investor Sentiment and the Closed-End Fund Puzzle*, *Journal of Finance* Vol. 46, 76–110 (1991).

³⁷¹ See *supra* footnote 37 (discussing restrictions on affected funds' ability to sell their shares at a price below NAV).

but have public float below \$700 million. In a similar vein, the use of alternative eligibility criteria for affected funds to qualify as WKSIs would put them at competitive advantage compared to similar operating companies without public float, such as unlisted REITs. Moreover, reducing the \$700 million threshold or providing alternative eligibility criteria for affected funds to qualify as WKSIs would likely lead to potential higher incidences of disclosure and fund practices that may not comply with applicable law due to reduced staff review.³⁷²

Given the important benefits that WKSI status provides, and the fact that currently only few affected funds would qualify as WKSIs, it is possible that advisers to some affected funds may try, through various means, including raising additional capital and mergers and acquisitions, to increase their funds' public float to the WKSI threshold. Thus, the possible effects of the rule may include increased fund size and consolidation of affected funds. Such developments may increase efficiency by allowing the larger resulting funds to benefit from improved access and lower cost of capital. We also recognize that consolidation may be driven by other factors as well, in combination with the effects of the rule, and typically would be subject to certain approvals by a fund's board of directors or shareholders.³⁷³ Potential consolidation and increases in fund size could also reduce costs to investors by, for example, allowing an affected fund to realize greater efficiencies and reduce its total operating expenses over time. However, consolidation also could inhibit competition and negatively affect the number of

³⁷² See also *infra* section III.D (discussing considerations related to an alternative of modifying the public float standards in the WKSI definition by changing the required level of public float or providing alternative eligibility criteria).

³⁷³ See, e.g., 17 CFR 270.17a-8 (Investment Company Act rule 17a-8).

investment opportunities available to investors if it leads to a reduction of the number of strategies funds employ. It is possible that new funds will enter the market thereby increasing competition and investment opportunities. Potential consolidation of affected funds could make it more difficult for new or smaller funds to compete since funds with larger amounts of assets may have better access to certain investment opportunities or may be able to offer lower costs to investors. Smaller funds, however, may have better access to investment opportunities in smaller companies because these investments may be too small to be economically viable for larger funds. At present, we are not able to estimate the effects of these competitive dynamics.

b. *Benefits from Shelf Registration*

Other provisions of the final rule could also enhance capital formation and lower the cost of offerings for affected funds that qualify as seasoned funds and file a short-form registration statement on Form N-2.³⁷⁴ For example, the final rule generally allows these funds to more efficiently use the shelf registration process if, like operating companies, they meet the eligibility requirements of Form S-3.³⁷⁵ As of June 30, 2019, there were 499 affected funds that met the \$75 million dollar public float criterion for primary offerings under Form S-3 (which criterion is incorporated into the short-form registration instruction of Form N-2).³⁷⁶ Affected funds that qualify will bear fewer costs associated with updating the information in their registration statements because information in the fund's Exchange Act reports will be incorporated by reference into the

³⁷⁴ See *supra* section II.B.

³⁷⁵ The short-form registration instruction refers to the eligibility criteria in Form S-3, with additional references to reporting requirements under the Investment Company Act.

³⁷⁶ See *supra* section III.A.1.

fund's registration statement. For example, for PRA purposes, we estimate that eligible affected funds will file approximately 128 fewer post-effective amendments annually as a result of the amendments, resulting in an annual aggregate cost reduction of approximately \$5,726,592 for these funds.³⁷⁷ Additionally, we understand that currently BDCs often file prospectus supplements close-in-time to filing their current and periodic Exchange Act reports to make sure the BDC's prospectus disclosure provides the same information as that disclosed in its Exchange Act reports. Under the final rule, eligible BDCs will no longer file these prospectus supplements since their Exchange Act reports will be incorporated by reference into their registration statements. As a result, an eligible BDC may, on average, file approximately 14 fewer prospectus supplements on an annual basis under the rule.³⁷⁸ We anticipate that eligible registered CEFs also will be able to make fewer prospectus supplement filings under the final rule, although they likely will not experience as large of a reduction in filings since, among other things, they file

³⁷⁷ See *infra* section IV.B.1. For purposes of the PRA, we estimate that the hour burden of preparing and filing a post-effective amendment is 125 hours. Reducing the number of post-effective amendments by 128 filings would decrease the aggregate annual burden of Form N-2 by 16,000 hours (125 hours x 128 post-effective amendments = 16,000 hours). We estimate that the monetized internal burden is \$33,625 per post-effective amendment and the external burden is \$11,114 per post-effective amendment. See *infra* section IV.B.1. The total annual cost is calculated by adding the monetized internal burden (\$33,625 x 128 post-effective amendments = \$4,304,000) to the cost of outside professionals (\$11,114 x 128 post-effective amendments = \$1,422,592). Although we have increased the expected reduction in the number of post-effective amendments discussed in the Proposing Release from 112 to 128 filings, the estimated annual aggregate cost reduction has decreased from \$7,943,376 to \$5,726,592 to better recognize how we have monetized internal burdens for purposes of the PRA. See Proposing Release, *supra* footnote 10, at n.359 and accompanying text; *infra* section IV.B.1.

³⁷⁸ This analysis assumes that a BDC would file a prospectus supplement for each Form 10-Q filing (3 filings per year), Form 10-K filing (1 filing per year), and Form 8-K filing (estimated to be 10 filings per year), for a total of 14 periodic and current reports per year. See Proposing Release, *supra* footnote 10, at n.415 and accompanying text (discussing the estimated number of Form 8-K filings per BDC per year).

periodic reports on a semi-annual basis (rather than quarterly) and generally are not required to report on Form 8-K. While we believe that affected funds will likely file fewer prospectus supplements under the final amendments, we are unable to estimate any reduction in the number of prospectus supplements that affected funds will file under the final rule, and any associated cost savings for affected funds, due to certain counterbalancing factors. For example, if the final rule causes affected funds to increase their capital-raising activities, they may need to update their prospectuses more often and may file more prospectus supplements as a result. However, if affected funds begin to use their Exchange Act reports to update their prospectuses, as permitted under the final amendments, they may file fewer prospectus supplements.³⁷⁹ On average, we believe that affected funds will likely file fewer prospectus supplements under the final amendments since they will be able to update their prospectus more efficiently by forward incorporating their Exchange Act reports, although an affected fund that greatly increases its capital-raising activities may not experience the same reduction in filing burdens.

In general, we believe affected funds that qualify for the short-form registration instruction will experience cost savings associated with making fewer filings and will be able to use a more efficient process to update their prospectus disclosure. This will decrease the costs of eligible funds' registered offerings and will also allow them to act more quickly to take advantage of favorable market conditions (*e.g.*, when trading at a premium). Certain seasoned funds registering shelf offerings also will be able to omit certain information from their prospectuses and use the same process as operating companies to provide omitted information by filing a prospectus supplement, which will

³⁷⁹ See *supra* sections II.B.3.e and II.I.2.a.

generally make the shelf registration process less costly for these funds as compared to the baseline.

The final rule also may provide incremental cost savings to affected funds that are eligible to file a short-form registration statement in certain other respects. For example, the final rule will reduce the costs of these funds seeking shareholder approval for proposals to authorize, issue, modify, or exchange securities by allowing them to incorporate by reference certain materials rather than delivering these materials to security holders with the proxy statement.³⁸⁰ We do not anticipate that these cost savings will be substantial, however, as we understand that affected funds do not often make these types of proposals to security holders. Affected funds that are eligible to file a short-form registration statement also could experience modest cost savings from the amendment to rule 418 since they will no longer be required by that rule to furnish certain information to the Commission or its staff promptly on request.³⁸¹

c. *Other Benefits for Affected Funds*

The final rule will generate other benefits for affected funds generally, regardless of whether they are WKSIs or seasoned funds. For example, the amendment to require affected funds to follow the same process that operating companies follow to file prospectuses under rule 424 will require that affected funds file prospectus supplements when changes from or additions to a previously filed prospectus are substantive, whereas currently they are required to file every prospectus that varies from any previously filed

³⁸⁰ See *supra* section II.G.2.

³⁸¹ See *supra* section II.G.1.

prospectus under rule 497.³⁸² Rule 424 also is designed to work together with rule 415(a)(1)(x), and provides additional time for an issuer to file a prospectus. This change could modestly reduce filing burdens and should facilitate eligible funds using the shelf registration process efficiently and in parity with operating companies. Also, the final rule allows an affected fund to satisfy its obligation to deliver a final prospectus by filing it with the Commission and complying with certain other requirements, thus decreasing the cost of the offering.³⁸³ For example, the final rule will permit affected funds to save on printing and mailing costs for delivering the final prospectus in paper.³⁸⁴

In general, commenters stated that the rule will generate benefits for affected funds. Several commenters stated that the proposed rule would lead to a more efficient capital-raising process.³⁸⁵ One commenter suggested that the proposed rule could also help encourage product development that would expand the universe of registered CEFs, but did not elaborate on the specific aspects of the rulemaking that would encourage product development.³⁸⁶

³⁸² See *supra* section II.B.3.d.

³⁸³ See *supra* section II.D.

³⁸⁴ Because a fund is not required to report the extent to which it relies on Commission guidance, we lack information to estimate the percentage of funds that solely or predominantly rely on electronic delivery under existing Commission guidance. See, e.g., Use of Electronic Media for Delivery Purposes, Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)]. Affected funds that rely to a greater extent on electronic delivery of final prospectuses under existing Commission guidance may realize smaller net cost savings under the rule.

³⁸⁵ See ACC Comment Letter; CBD Comment Letter; SIFMA Comment Letter.

³⁸⁶ See Invesco Comment Letter.

d. *Benefits for Other Parties*

The lower costs of registered offerings resulting from the final rule should benefit investors in affected funds because funds bear offering expenses. Lowering offering expenses may, all else equal, reduce the size of the discount or increase the size of the premium at which shares of the affected funds trade. Two commenters expressed similar views, arguing that the proposed rule would provide cost savings to funds' shareholders.³⁸⁷

In addition, the final rule could reduce the cost to underwriters of participating in registered offerings of affected funds, and these potential cost savings could be passed on to the affected funds. Based on the sheer volume and number of transactions,³⁸⁸ underwriters may have more expertise and established procedures for operating companies' registered offerings, which are subject to the rules we are extending to affected funds. In contrast, underwriters probably have less, or more concentrated, expertise regarding the current requirements for offerings by affected funds. Standardization in the registered offering space, by making the offerings of affected funds more similar to those of operating companies, could make it easier for underwriters to execute such offerings and may decrease their compliance costs. If underwriters pass some of the cost savings on to affected funds and their investors, this could result in cheaper registered offerings for affected funds, thus encouraging them to raise more

³⁸⁷ See ICI Comment Letter; Invesco Comment Letter.

³⁸⁸ For example, in 2017 non-fund issuers raised approximately \$1.3 trillion in 1,846 registered debt offerings and \$184 billion in 976 registered equity offerings. See *Capital Raising in the U.S.: An Analysis of the Market for Unregistered Securities Offerings, 2009-2017*, Division of Economic and Risk Analysis White Paper (Aug. 1, 2018), available at https://www.sec.gov/dera/staff-papers/white-papers/dera_white_paper_regulation_d_082018.

capital, which would lead to enhanced capital formation. Lastly, standardization may encourage a broader set of underwriters to participate in this market, potentially decreasing costs for affected funds and investors in these funds. One commenter agreed that the proposed rule would make it easier for underwriters to execute offerings by affected funds, which could lead to decreased costs.³⁸⁹

The final rule could level the securities offering playing field between affected funds and operating companies and streamline the registration process for affected funds, consequently making them potentially more competitive in the market for capital raising. The final rule may also make certain affected funds more competitive compared to affected funds that either cannot or choose not to rely on these amendments. Thus, the final rule will likely enhance competition in the public capital markets. The increased competition for capital in turn could lead to potentially better allocation of capital. The final rule may also benefit companies in which affected funds invest. Small and mid-size companies, because of their size, type of assets, risk profile, and the general lack of information about their activities and financial condition, typically find it more difficult to raise funds from traditional sources of capital such as bank loans and registered offerings.³⁹⁰ This difficulty in sourcing more traditional financing constrains their ability to invest in profitable projects and grow. To the extent that the final rule improves capital-raising opportunities for affected funds that invest in these companies, this may

³⁸⁹ See SIFMA Comment Letter.

³⁹⁰ See, e.g., Alan Berger and Gregory Udell, *The Economics of Small Business Finance: The Roles of Private Equity and Debt Markets in the Financial Growth Cycle*, *Journal of Banking and Finance*, Vol. 22, 613–673 (1998); Meghana Ayyagari, Asli Demirgüç-Kunt, and Vojislav Maksimovic, *How Important are Financing Constraints? The Role of Finance in the Business Environment*, World Bank Mimeo (2005); Crowdfunding, Securities Act Release No. 9974 (Oct. 30, 2015) [80 FR 71388 (Nov. 16, 2015)].

result in investments in a greater number of small to mid-size U.S. companies, thus alleviating financial constraints of such companies and contributing to economic growth generally.³⁹¹ Commenters generally agreed that the proposed rule would facilitate capital formation, especially for small to mid-size businesses.³⁹² One commenter stated that the proposed rule could potentially stimulate economic growth.³⁹³

2. *Facilitated Communication with Investors*

The final rule will provide incremental flexibility to funds in their communications, which may increase the flow of information to investors.³⁹⁴ Currently, affected funds generally are unable to communicate about an offering before a registration statement is filed, and their post-filing communications are subject to prospectus liability under section 12 of the Securities Act (or must be accompanied or preceded by the statutory prospectus).³⁹⁵

This standardization in the communications processes of affected funds, by making them similar to those of operating companies, will make it easier for underwriters to execute offerings by affected funds and thus may decrease their compliance costs, which in turn may lead to lower offering costs and potentially enhance capital formation.

³⁹¹ See, e.g., Torsten Beck, Asli Demirgüç-Kunt, and Ross Levine, *SMEs, Growth, and Poverty: Cross-Country Evidence*, *Journal of Economic Growth*, Vol. 10, 197–227 (2005); Ryan Decker, John Haltiwanger, Ron Jarmin, and Javier Miranda, *The Role of Entrepreneurship in U.S. Job Creation and Economic Dynamism*, *Journal of Economic Perspectives*, July, 3-24 (2014).

³⁹² See SIFMA Comment Letter; ACC Comment letter; CBD Comment Letter.

³⁹³ See ICI Comment Letter.

³⁹⁴ See *supra* section II.F.

³⁹⁵ But see *supra* footnote 144 (explaining that affected funds currently are permitted to engage in certain pre-filing test-the-waters communications under Securities Act rule 163B).

Additionally, under the final rule, affected funds that qualify as WKSIs can engage in the widest range of communications, including free writing prospectus communications about an offering with any party before a registration statement is filed. More generally, affected funds will be able to engage in certain other pre-filing communications, use free writing prospectuses after a registration statement is filed, and use certain communications that are not subject to prospectus liability. The changes in the communications rules for affected funds may increase the amount of valuable information that could be provided to investors before they make investment decisions, particularly with respect to WKSIs. We believe that more information could be provided on a timelier basis because the amendments will eliminate regulatory barriers to the dissemination of that information, and the markets may provide incentives for issuers, underwriters, and broker-dealers to produce additional information. We also believe that the increased flexibility of affected funds in their communications with investors under the free writing prospectus rules will maintain appropriate investor protection, consistent with the protections that apply to affected funds' communications under rule 482. For example, the rules that allow affected funds to use free writing prospectuses are designed to assure that written issuer-provided or issuer-used information is publicly available. Additionally, the free writing prospectus will be a section 10(b) prospectus under the Securities Act and, as such, will be subject to liability under section 12(a)(2) as well as the anti-fraud provisions of the Federal securities laws.

Increased information flow can help promote efficient capital markets because the market may be able to value securities more accurately. For example, the final rule will permit broker-dealers to disseminate research about an affected fund if certain conditions are met. While broker-dealers currently may disseminate such research under rule 482,

the amendments to rule 138 will likely reduce certain costs to broker-dealers associated with rule 482 (e.g., filing costs and concerns associated with prospectus liability). This could allow more valuable information about affected funds to reach potential investors. Another benefit of increasing the information flow is that investors may become better informed in making portfolio allocation decisions in accordance with their particular risk-return profiles. In addition, the final rule may benefit broker-dealers who provide research reports on affected funds by reducing their potential liability exposure associated with such reports, relative to the baseline, which may encourage them to provide additional research and enhance information flow. Commenters generally agreed that the proposed rule would provide more flexibility for affected funds to communicate and would increase information flow.³⁹⁶

C. Potential Costs Resulting from the Proposed Implementation of the Statutory Mandates

1. Compliance Costs

The amendments we are adopting to implement the statutory mandates could increase affected funds' compliance costs in certain respects.³⁹⁷ We also are cognizant of the fact that such an increase could be passed on to funds' investors. A potential cost of the final rule is that affected funds could incur increased filing or recordkeeping costs associated with issuer free writing prospectuses,³⁹⁸ although affected funds currently face many of the same filing and recordkeeping costs under rule 482. For example, the ability

³⁹⁶ See ACC Comment Letter; ICI Comment Letter; Invesco Comment Letter.

³⁹⁷ See also *infra* section III.E (discussing compliance and other costs associated with the proposed discretionary amendments).

³⁹⁸ See *supra* section II.F.1; *infra* section IV.B.4 (estimating the annual paperwork burden for free writing prospectuses under rules 163 and 433 for purposes of the PRA).

of affected funds that qualify as WKSIs to use free writing prospectuses may increase the level of these funds' current communications (including certain communications prior to filing a registration statement that are presently prohibited), thus increasing the funds' filing and recordkeeping costs.³⁹⁹ We estimate that affected funds that are WKSIs would have additional annual filing and recordkeeping costs of \$200 per affected fund for free writing prospectuses used before the fund files a registration statement.⁴⁰⁰ To the extent affected funds use free writing prospectuses for communications that currently occur under rule 482, the costs associated with free writing prospectuses could increase, and the costs associated with rule 482 advertisements could decrease. We are unable to predict, however, whether affected funds will be more likely to use free writing prospectuses than rule 482 communications or to engage in more communications with investors in practice as a result of the amendments.

Affected funds could also incur costs associated with adjusting their internal procedures for filing prospectus supplements.⁴⁰¹ Such costs could stem from the need to augment funds' information technology systems or train funds' employees, although, as

³⁹⁹ *But see infra* Table 14 footnote 1 (discussing that only 10 WKSIs relied on rule 163 for the Commission's 2017 fiscal year).

⁴⁰⁰ For purposes of the PRA, we estimate that, on average, affected funds that are eligible to be WKSIs (estimated as 100 funds) would file two free writing prospectuses under the proposed amendments to rule 163 each year. We estimate the total incremental burden would be approximately 0.125 hours and \$150 for the service of outside professionals. *See infra* section IV.B.4. We monetize the internal burden of preparing and filing a free writing prospectus by multiplying the burden hours by an estimated wage rate of \$400 per hour ($0.125 \times \$400 = \50). The estimated wage figure is based on analysis in previous rulemakings. The total annual cost is calculated by adding the monetized internal burden (\$50) to the cost of outside professionals (\$150).

⁴⁰¹ *See supra* section II.B.3.d.

recognized above, affected funds likely will be able to file fewer prospectus supplements under the final rule.

Parties that will be required to provide notices under rule 173,⁴⁰² including underwriters and dealers in certain circumstances, may incur additional costs due to the requirement to notify affected fund investors that they have purchased shares in a registered offering. In addition, these same parties may incur costs to establish procedures for receiving and complying with requests for final prospectuses. We believe that providing the notice to investors will not impose a significant incremental cost because the notice can consist of a pre-printed message that is automatically delivered with or as part of the confirmation required by 17 CFR 240.10b-10 (Exchange Act rule 10b-10). Accordingly, we estimate that the cost of complying with rule 173 will be approximately \$0.05 per notice.⁴⁰³ We estimate the annual cost of providing the notification will be approximately \$831,729.⁴⁰⁴ For the parties that are required to provide such notices, these additional costs of complying with rule 173 will be mitigated to a certain degree by the elimination of the requirement to supply a final prospectus to each investor.

⁴⁰² See *supra* section II.D.

⁴⁰³ The Commission has estimated the cost per rule 173 notice to be \$0.05 for operating companies. See Securities Offering Reform Adopting Release, *supra* footnote 5, at 44795. We assume the same cost will apply to rule 173 notices provided to affected fund investors.

⁴⁰⁴ For the purpose of the PRA, we estimate that there will be 43,546 notices per year per affected fund with an effective Securities Act registration statement (estimated as 382 affected funds). The annual cost of providing rule 173 notification is calculated as the number of affected funds (382) x the number of notices per year (43,546) x the cost per notice (\$0.05). See *infra* section IV.B.5.

2. *Other Costs*

Under the final rule, affected funds that qualify as WKSIs will be able to file shelf registration statements and post-effective amendments that become automatically effective. To the extent that investors previously benefited from the Commission staff's review of these filings before they become effective, allowing these filings of affected funds that are WKSIs to become automatically effective may eliminate such reviews and, as a result, possibly increase the costs to investors. Allowing affected funds that file short-form registration statements on Form N-2 to forward incorporate by reference could have a similar potential impact on investors. However, issuers will still face liability under the Federal securities laws for registration statement disclosures (*e.g.*, sections 12 and 17 of the Securities Act and section 10(b) of the Exchange Act and 17 CFR 240.10b-10 (rule 10b-5 under the Exchange Act)), which may ameliorate the potential costs associated with reduced staff review.⁴⁰⁵

More generally, allowing forward incorporation by reference under the short-form registration instruction could increase the analytical burden and search costs for potential investors. Currently, affected funds provide required information in the prospectus that is delivered to investors, and forward incorporation by reference is not allowed. Under the amendments, instead of having all the information available in one location, investors may need to separately access on a website or request the incorporated materials. As a result, costs to investors for assembling and assimilating necessary information could

⁴⁰⁵ Certain of our discretionary amendments may also ameliorate these costs. *See infra* section III.E.3 (discussing the benefits and costs of the requirement to disclose material unresolved staff comments) and section III.E.2 (discussing the benefits and costs of the structured data requirements).

increase, with a potentially stronger effect for retail investors (*e.g.*, because they generally may not have the technical capabilities or monetary resources to efficiently search through several information sources). We do not have data to assess if, and to what extent, this revision will burden investors.

However, an affected fund making a shelf offering under rule 415(a)(1)(x) is required to file a new registration statement every three years, which provides investors with a periodic update of consolidated information.⁴⁰⁶ The final rule will require that affected funds provide in their annual reports certain information currently disclosed in their prospectuses to make the information more readily available in one document for investors.⁴⁰⁷ Further, Securities Act Forms S-3 and F-3 have long permitted incorporation by reference from the issuer's Exchange Act reports, and investors have not indicated they are unduly burdened when investing in offerings registered on these Forms.⁴⁰⁸ Studies have shown, however, that the majority of investors in operating companies are institutional investors, whereas the majority of investors in the securities of affected funds are retail investors, who may face relatively higher costs associated with searching for information distributed across multiple documents.⁴⁰⁹ In addition, the requirement to backward and forward incorporate by reference certain information into a short-form

⁴⁰⁶ See *supra* footnote 29.

⁴⁰⁷ See *supra* section II.I.2.a.

⁴⁰⁸ See Securities Offering Reform Adopting Release, *supra* footnote 5, at 44796.

⁴⁰⁹ The average institutional holding is estimated to be approximately 30% for BDCs and 21% for registered CEFs. See Covered Investment Fund Research Reports Adopting Release, *supra* footnote 101, at 64199. The institutional ownership of U.S. public equities was approximately 67% as of 2010. See Marshall E. Blume and Donald B. Keim, *Institutional Investors and Stock Market Liquidity: Trends and Relationships*, Working Paper, The Wharton School, University of Pennsylvania (Aug. 21, 2012).

registration statement could increase an affected fund's liability with respect to information that has not previously been incorporated into its registration statement because this information will now be part of the registration statement. This could increase costs for relevant funds, including potential legal costs (*e.g.*, those associated with additional review of materials that would be incorporated by reference into the fund's registration statement, or counsel and other costs in connection with potential legal actions). These potential cost increases could be passed on to investors of affected funds.

The final rule will allow an affected fund to not deliver final prospectuses directly to investors if the fund files the final prospectus with the Commission and certain other conditions are satisfied. We acknowledge, however, that while this procedure has become commonplace in many aspects of our capital markets, there may be some investors who would prefer to receive the prospectus directly. While an investor could request a copy of the final prospectus under rule 173, there will be burdens on an investor to make such a request (*e.g.*, loss of time while making the request and a delay in receiving the prospectus). Thus, investors without home internet access, depending on their ability and preference to access fund information electronically, might experience a reduction in their ability to access a fund's final prospectus. To the extent that a reduction in this information by such investors decreases how informed they are about affected funds, it could potentially decrease their ability to efficiently allocate capital across affected funds and other investments. However, an investor's purchase commitment and the resulting contract of sale of securities to the investor in the offering generally occur before the final prospectus is required to be delivered under the Securities Act, and this is commonplace in other parts of our capital markets. Moreover, for sales occurring in the secondary

market, as a result of our existing rules, investors in securities of reporting issuers generally are not delivered a final prospectus.⁴¹⁰

D. Alternatives to Adopted Approach to Implementing Statutory Mandates

We considered certain alternative approaches to implementing the directives in the BDC Act and Registered CEF Act to allow affected funds to use the securities offering rules that are available to operating companies. Although the BDC Act identifies certain required amendments to our rules and forms, we could have, for example, made additional modifications to the relevant provisions for affected funds or further revised the current registration and offering framework affected funds use.

For example, as discussed above, we considered modifying the public float standards in the WKSI definition or the short-form registration instruction by changing the required level of public float or providing alternative eligibility criteria, such as the aggregate NAV of a certain size for funds whose shares are not traded on an exchange.⁴¹¹ Several commenters supported changing the public float standards in the WKSI definition for affected funds.⁴¹² These alternatives could have allowed more affected funds to qualify as WKSIs or to file short-form registration statements, with the associated benefits (*e.g.*, lower costs of registered offerings) and costs (*e.g.*, potential higher incidence of disclosure and fund practices that may not comply with applicable law due to reduced staff review) discussed above. For example, most interval funds do

⁴¹⁰ See Securities Offering Reform Adopting Release, *supra* footnote 5, at 44782.

⁴¹¹ See *supra* section II.C.

⁴¹² See, *e.g.*, ICI Comment Letter; ABA Comment Letter; Dechert Comment Letter; CBD Comment Letter; TIAA Comment Letter.

not list their securities on an exchange and do not have “public float,” and these alternatives therefore could have permitted these interval funds, as well as other unlisted affected funds, to qualify as WKSIs or file short-form registration statements. However, modifying the eligibility criteria in the WKSI definition or the short-form registration instruction could give affected funds that do not have the requisite public float under the current WKSI definition or Form S-3 eligibility requirements an advantage over certain operating companies that do not have public float or do not meet the \$700 million public float requirement. In addition, certain of the benefits that flow from WKSI status or the ability to use a short-form registration statement may be less relevant to unlisted affected funds that engage in continuous offerings.⁴¹³ Further, interval funds already have a tailored registration process that provides similar efficiencies. For example, certain of an interval fund’s post-effective amendments are immediately effective upon filing (*e.g.*, filings solely to update the fund’s financial statements or to make non-material changes), while other post-effective amendments (*e.g.*, filings to make material changes) are automatically effective 60 days after filing unless the fund designates a later date for effectiveness. In addition, we are extending this process to allow other continuously-offered unlisted affected funds to file immediately-effective post-effective amendments under the same circumstances as interval funds. Specifically, we are amending rule 486 to allow certain unlisted continuously-offered affected funds to maintain effective registration statements in a more efficient and cost-effective manner. We believe that amended rule 486 will provide these funds with benefits that are similar to the benefits we are providing to affected funds that qualify to file short-form registration statements

⁴¹³ See *supra* paragraph accompanying footnotes 50–51.

or as WKSIs. Interval funds and other continuously-offered unlisted affected funds, however, will not experience the same efficiencies as affected funds that qualify to file short-form registration statements or as WKSIs when they make material changes to their registration statements. This is because these filings by interval funds and other continuously-offered unlisted affected will be subject to staff review and will not be immediately effective upon filing.

Under the BDC Act and the Registered CEF Act, we could have extended the final rule only to BDCs, listed registered CEFs, and interval funds. Under this approach, unlisted registered CEFs would not have been able to take advantage of certain benefits of the amendments that would otherwise be available to unlisted BDCs, such as the cost savings associated with the final prospectus delivery reforms.⁴¹⁴ This alternative also could have saved unlisted registered CEFs certain compliance costs stemming from the proposed rulemaking, such as the requirement to tag certain prospectus information using Inline XBRL. However, excluding unlisted registered CEFs from the final rule could create unnecessary competitive disparities between unlisted registered CEFs and unlisted BDCs and would not provide investors in unlisted registered CEFs with the benefits of the new investor protections we are adopting.

E. Discussion of Discretionary Choices

We discuss below the discretionary amendments that we are adopting, in light of the changes to implement the BDC Act and Registered CEF Act and the associated benefits and costs of those choices. We have tried to quantify the impact of each of the

⁴¹⁴ As previously recognized, unlisted registered CEFs would not be eligible for certain of the amendments. *See supra* section II.A.

amendments, but in many cases, reliable, empirical evidence about the effects is not readily available to the Commission.

With respect to the proposed discretionary amendments, one commenter stated that the proposal would impose regulatory and compliance costs on unlisted affected funds, while at the same time providing unlisted interval funds with only small benefits and providing no benefits to other unlisted affected funds (e.g., tender offer funds).⁴¹⁵ We believe interval funds and other continuously-offered unlisted affected funds will directly benefit from two of our discretionary amendments.⁴¹⁶ While the final rule also imposes certain costs on these funds, we believe those costs are warranted, as discussed in detail below. Moreover, we are not at this time adopting the proposed new reporting requirements on Form 8-K that would have imposed costs on unlisted affected funds.⁴¹⁷

1. *New Registration Fee Payment Method for Interval Funds and Issuers of Certain Exchange-Traded Products*

We are adopting a modernized approach to registration fee payment for interval funds that will require them to pay securities registration fees using the same method that mutual funds and ETFs use today. In response to comments, we also are allowing certain ETPs that are not registered under the Investment Company Act to use a similar method to pay registration fees.

With respect to interval funds, the final rule requires these funds to pay their registration fees on a net basis once a year, rather than having to pay registration fees

⁴¹⁵ See ABA Comment Letter.

⁴¹⁶ See *infra* sections III.E.1 and III.E.5.

⁴¹⁷ See *supra* section II.I.3.

when the fund files its registration statement.⁴¹⁸ We believe this approach will make the registration fee payment process for interval funds more efficient. For example, it will avoid the possibility that an interval fund will inadvertently sell more shares than it has registered and will not require the issuer to periodically register new shares.

We believe the final rule could also benefit interval funds by reducing their initial registration fees. In the table below, we have attempted to quantify the potential initial cost-savings for interval funds under the modernized approach to registration fee payment over a 3-year period.⁴¹⁹

TABLE 4

	Current average registration fee (paid upon filing)¹	Estimated average registration fee that will be paid under the amendments (paid at the end of the fiscal year)²
Year 1	\$31,501	\$8,376
Year 2	-	\$7,015
Year 3	-	\$22,445

Notes:

1. The current average registration fee paid in year 1 is the average of the actual fees reported by the interval funds in the Calculation of Registration Fee table in Form N-2 in the year of registration with the Commission. For purposes of this analysis, we assume that interval funds did not register additional securities in years 2 or 3. If they did, the average registration fees under the current framework would be higher than \$31,501.
2. For each of the interval funds, the fees in years 1, 2, and 3 are estimated as [(dollar proceeds from shares issued + dollar cost of shares repurchased) / \$1,000,000] x \$129.80. The \$129.80 is the fee rate (per million dollars) that funds pay to register shares for fiscal year 2020. Then we calculate the average fees per year.

Under the current regime, an interval fund would pay on average \$31,501 at the time of filing, and then issue and repurchase securities over time. Under the regime we are adopting, the interval fund will pay its registration fees on a net basis once a year. Since the final rule allows interval funds to shift more of the fee payments to the future, it will decrease their cost of offering securities. An interval fund will, however, be required

⁴¹⁸ See *supra* section II.G.3.

⁴¹⁹ The estimates are based on data collected for interval funds that were active as of June 30, 2018. We used their Form N-2 filings and Form N-CSR filings to identify current registration fees, proceeds from shares issued, and cost of shares repurchased.

to annually file Form 24F-2.⁴²⁰ We estimate the annual burden of filing Form 24F-2 for interval funds will be \$140 per fund.⁴²¹

We believe the final rule will provide similar benefits to certain ETPs that are not registered under the Investment Company Act by allowing these ETPs to elect to register an indeterminate number of securities and to pay registration fees in arrears on an annual net basis. Since now ETPs pay registration fees in advance whether or not they sell any securities and may not factor in redemptions in reducing the amount of the registration fees owed, this change will allow them to reduce their registration fees and shift their payment obligations into future periods. The amendments will also avoid the possibility that such an ETP will inadvertently sell more shares than it has registered and will not require the issuer to periodically register new shares. Moreover, the amendments will allow ETPs that are not registered under the Investment Company Act to use a similar registration fee payment method as ETFs that are registered under the Investment Company Act.

As an alternative, we considered allowing a wider range of affected funds, such as registered CEFs that are tender offer funds, to rely on rule 24f-2. This approach would have extended the benefits of rule 24f-2 to additional affected funds. However, as discussed above, interval funds have structural similarities to mutual funds and ETFs that other affected funds do not. In particular, interval funds routinely repurchase shares at

⁴²⁰ As discussed below, interval funds and other funds that file on Form 24F-2 will be required to file the form in a structured XML format under the amendments.

⁴²¹ For PRA purposes, we estimate an annual burden per respondent of filing Form 24F-2 of two hours. *See infra* section IV.B.6. At an estimated wage rate of \$70 per hour, the annual dollar cost for filing Form 24F-2 is \$140 (2 hours x \$70 per hour). This estimate does not account for burdens associated with filing Form 24F-2 in a structured XML format, which are discussed *infra* in section III.E.2.

NAV and are required to periodically offer to repurchase their shares, and therefore are more likely to realize the operational benefits of computing registration fees on a net annual basis than are funds that are not required to periodically offer to repurchase their shares at NAV.

2. *Structured Data Requirements*

The final rule includes new structured data reporting requirements for affected funds. Specifically, all affected funds will be required to tag in Inline XBRL format certain Form N-2 prospectus disclosure items. All affected funds also will be required to tag the information on the cover page of Form N-2 using Inline XBRL. Finally, BDCs will be required to tag financial statement information using Inline XBRL.

Under the final rule, affected funds will be required to tag the following Form N-2 prospectus disclosure items using Inline XBRL: Fee Table; Senior Securities Table; Investment Objectives and Policies; Risk Factors; Share Price Data; and Capital Stock, Long-Term Debt, and Other Securities.⁴²² These items provide important information about an affected fund's key features, costs, and risks and may be particularly useful to investors to inform their investment decisions. With respect to the requirement that BDCs tag financial statement information, unlike operating companies and registered investment companies, BDCs currently are not required to report any structured data.⁴²³ This requirement will extend to BDCs a requirement that currently applies to operating companies.

⁴²² See *supra* section II.I.1.c.

⁴²³ See *supra* section II.I.1.a.

Requiring BDCs to tag financial statement information using Inline XBRL, and all affected funds to tag in Inline XBRL format certain important prospectus disclosure items, will provide important benefits to investors seeking to access information about affected funds, both directly and through information intermediaries such as data aggregators and financial analysts. Providing a standardized, interactive, computer-based framework for reporting could further facilitate more efficient investor comparisons of important information across affected funds by making it easier to aggregate and analyze information through automated means, which could increase competition for investor capital. The Inline XBRL tagging requirements may also potentially increase the efficiency of capital formation to the extent that making disclosures available in a structured format reduces some of the information barriers facing prospective investors and makes it easier for affected funds to attract investors. One commenter expressed similar views.⁴²⁴

Smaller affected funds in particular may benefit more from enhanced exposure to investors. To the extent that reporting the disclosures in a structured format increases the availability, or reduces the cost of collecting and analyzing, key information about affected funds, smaller affected funds may benefit from improved coverage by information intermediaries. Further, requiring affected funds to tag certain prospectus disclosures using Inline XBRL would facilitate monitoring of these disclosures by investors and information intermediaries, potentially increasing transparency and mitigating the potential informational costs stemming from other aspects of the proposal such as automatic shelf registration statements for WKSIs and short-form registration

⁴²⁴ See Calcbench Comment Letter.

statements for eligible funds, which may result in required disclosures being distributed across multiple regulatory filings and could thereby affect investor protection.⁴²⁵

The cover page tagging requirement includes new check boxes that will help identify whether a registration statement is, for example, an automatic shelf registration statement or a short-form registration statement.⁴²⁶ We already require registrants to tag all of the information on the cover page of Form 10-K, Form 10-Q, Form 8-K, Form 20-F, and Form 40-F using Inline XBRL.⁴²⁷ The requirement to tag the Form N-2 cover page in Inline XBRL is expected to benefit investors by enabling investors and information intermediaries to automate their use of the cover page information, including company name, the Act or Acts to which the registration statement relates, and check boxes relating to the effectiveness of the registration statement. This will enhance the ability of investors and information intermediaries to identify, count, sort, and analyze registrants and disclosures to the extent these data points otherwise would be formatted, for example, in HTML. The check boxes, which are required to be tagged in Inline XBRL format, will allow investors and information intermediaries to distinguish between different categories of registration statements in much the same way they are currently able to do for operating companies. The availability of information in Inline XBRL could enable investors and information intermediaries to capture and analyze cover page information more quickly and at a lower cost, as well as to search and analyze the information

⁴²⁵ See *supra* section III.C.2 (discussing these costs).

⁴²⁶ See *supra* section II.I.1.b.

⁴²⁷ See FAST Act Modernization Adopting Release, *supra* footnote 66.

dynamically. It could also facilitate comparison of information across filers and reporting periods.

Affected funds will incur some costs to tag and review the required information in Inline XBRL. Some filers may perform the tagging in-house while others may retain outside service providers. We expect filers will incur costs for the fees of the outside service providers. Various XBRL preparation solutions have been developed and used by operating companies and open-end fund filers, and some evidence suggests that, for operating companies, XBRL tagging costs have decreased over time.⁴²⁸ While this evidence is specific to XBRL tagging costs rather than Inline XBRL tagging costs, because Inline XBRL allows filers to embed XBRL data directly into an HTML document, we expect Inline XBRL costs to be even lower than XBRL costs since Inline XBRL eliminates the need to tag a copy of the information in a separate XBRL exhibit. Costs of Inline XBRL preparation may depend on the familiarity of the filer and/or its service provider with Inline XBRL. Filers that currently report information in Inline XBRL for other investment products they offer, such as open-end funds, filing affected fund information in Inline XBRL under the amendments will likely incur lower costs of compliance than filers adopting Inline XBRL for the first time. Those registrants affected by the requirement that have not had experience structuring disclosures in other contexts

⁴²⁸ See, e.g., Michael Cohn, *AICPA sees 45% drop in XBRL costs for small companies*, Accounting Today (Aug. 15, 2018), available at <https://www.accountingtoday.com/news/aicpa-sees-45-drop-in-xbrl-costs-for-small-reporting-companies> (stating that, according to an updated survey by AICPA and XBRL US, the cost of formatting financial statements in XBRL for smaller reporting companies has declined 45% since 2014 and that 68.6% of the companies paid \$5,500 or less on an annual basis (as compared to 29.9% of companies in the 2014 survey) for fully outsourced creation and filing solutions for their XBRL filings, while 11.8% of the companies surveyed paid annual costs between \$5,500 to as much as \$8,000 for their full-service outsourced solutions).

will likely incur initial costs to acquire the necessary expertise and/or software as well as ongoing costs of tagging required information in Inline XBRL, and any fixed costs of complying with the Inline XBRL requirement may have a relatively greater impact on smaller filers. On an ongoing basis, registrants are expected to expend time to tag and review the tagged information in Inline XBRL using their in-house staff. Some registrants may also incur an initial cost to license filing preparation software with Inline XBRL capabilities from a software vendor, and some may also incur an ongoing licensing cost. Other registrants may incur an initial cost to modify their existing filing preparation software to accommodate Inline XBRL preparation. Some registrants will incur the costs of filing agent services to rely on a filing agent to prepare their Inline XBRL filings. Initial costs involving investments in expertise and modifications to disclosure preparation solutions, or switching to a different software vendor or outside service provider, may result in a higher compliance cost during the first year of using Inline XBRL than in subsequent years.

The costs of compliance with the Inline XBRL requirements are likely to vary across registrants. On average we estimate that the compliance cost to BDCs of tagging financial statement information, certain prospectus disclosure items, and Form N-2 cover page information using Inline XBRL will be approximately \$161,179 per BDC per year in the 3 years following the adoption of the rule.⁴²⁹ We estimate that the compliance cost

⁴²⁹ For BDCs, for the purposes of the PRA, we estimated the average annual compliance costs in the 3 years following the adoption of the rule to be 33,028 burden hours of in-house Inline XBRL preparation (31,095 burden hours for tagging financial statement information, 1,828 burden hours for certain prospectus disclosure items, and 105 burden hours for Form N-2 cover page information using Inline XBRL) and \$3,712,565 in outside services (\$3,555,931 for tagging financial statement information, \$156,634 for certain prospectus disclosure items, and \$0 for Form N-2 cover page information using

to registered CEFs of tagging in Inline XBRL format certain prospectus disclosure items and tagging Form N-2 cover page information will be approximately \$8,855 per registered CEF per year in the 3 years following the adoption of the rule.⁴³⁰ We note that some recent surveys based on operating companies suggest that these current PRA-based burden estimates may be overstated with respect to affected funds, and particularly smaller affected funds.⁴³¹

One commenter cited a study by the European Securities and Markets Authority estimating the cost of preparing Inline XBRL in-house to be on average around 8,200 euros for the first filing and 2,400 euros for each subsequent filing.⁴³² In case of outsourcing, the study estimates the costs to be on average around 13,000 euros for the

Inline XBRL). *See infra* section IV.B.2. We monetize the burden of in-house Inline XBRL preparation by multiplying the burden hours by an estimated wage rate of \$400 per hour (33,028 x \$400 = \$13,211,200). The estimated wage figure is based on analysis in previous rulemakings. The average cost per BDC is calculated by adding the monetized internal burden (\$13,211,200) to the cost of outside services (\$3,712,565) and dividing by the number of BDCs (105). *See also supra* footnote 355.

⁴³⁰ For registered CEFs, for the purposes of the PRA, we estimated the average annual compliance costs in the 3 years following the adoption of the rule to be 12,628 burden hours of in-house Inline XBRL preparation (686 burden hours for Form N-2 cover page information using Inline XBRL and 11,942 burden hours for certain prospectus disclosure items) and \$1,023,345 in outside services (\$0 for Form N-2 cover page information using Inline XBRL and \$1,023,345 for certain prospectus disclosure items). *See infra* section IV.B.2. We monetize the burden of in-house Inline XBRL preparation by multiplying the burden hours by an estimated wage rate of \$400 per hour (12,628 x \$400 = \$5,051,200). The estimated wage figure is based on analysis in previous rulemakings. The average cost per registered CEF is calculated by adding the monetized internal burden (\$5,051,200) to the cost of outside services (\$1,023,345) and dividing by the number of registered CEFs (686).

⁴³¹ *See* American Institute of CPAs, *XBRL Costs for Small Companies Have Declined 45%, According to AICPA Study* (Aug. 18, 2018), available at <https://www.aicpa.org/press/pressreleases/2018/xbrl-costs-have-declined-according-to-aicpa-study.html>; CFA Institute, *The Cost of Structured Data: Myth vs. Reality* (2017), available at <https://www.cfainstitute.org/-/media/documents/survey/the-cost-of-structured-data-myth-vs-reality-august-2017.ashx>.

⁴³² *See* XBRL US Comment Letter.

first filing and 4,600 euros for each subsequent filing. However, we do not believe that these figures the commenter cited are salient to the structured data requirements we are adopting. For example, although not cited by the commenter, the same study mentions that in the United States, because of the detailed tagging and extended taxonomy, the average costs for outsourcing the preparation of the financial statements in XBRL is higher, between 9,000 euros and 19,000 euros.⁴³³

As an alternative, we could have allowed but not required affected funds to present cover page, financial statement, and certain prospectus disclosure information in Inline XBRL. Compared to the final rule, a fully voluntary Inline XBRL program would lower costs for those filers that do not find Inline XBRL to be cost efficient. We also could have required Inline XBRL tagging only for a subset of affected funds—for example, affected funds that file short-form registration statements on Form N-2 or WKSIs. We also could have permitted more than one structured data format or left the precise format unspecified. However, a voluntary program or the use of multiple structured data formats would also reduce potential data quality benefits compared to mandatory Inline XBRL, as would a program that captures only a subset of affected funds. If the information were not submitted by all affected funds in a standardized, structured, machine-readable format, investors who seek to instantly analyze, aggregate, and compare the data would have to incur the costs of paying a third-party service provider to manually rekey the data, review the data for data quality problems during the

⁴³³ See European Securities and Markets Authority, Feedback Statement on the Consultation Paper on the Regulatory Technical Standard on the European Single Electronic Format (ESEF) (Dec. 21, 2016), *available at* https://www.esma.europa.eu/sites/default/files/library/2016-1668_esma_feedback_statement_on_the_rts_on_esef_0.pdf.

duplication process, and disseminate the data to the investors.⁴³⁴ Alternatively, investors unwilling to pay a third-party service provider would have to incur the time to do that process themselves. In either scenario, the data would not be usable in as timely a manner as if it were made machine-readable in a standardized format. In addition, under a voluntary program, data that is not submitted in Inline XBRL would not be validated, thus decreasing the overall data quality of the data submitted. Unlike the machine-readable Inline XBRL format, data submitted in unstructured formats (e.g., HTML, ASCII) is not machine-readable at the element level and thereby cannot be validated by EDGAR in any way. Thus, data submitted in the HTML format by affected funds that opted not to use Inline XBRL and XBRL data submitted by other affected funds could be different due to the level of pre-submission validation activities. Poor data quality reduces any data user's ability to meaningfully analyze, aggregate, and compare data. One commenter supported the use of Inline XBRL compared to unstructured formats, arguing that Inline XBRL data is significantly less expensive to process and more timely than unstructured data.⁴³⁵

As another alternative, we could have required the disclosures to be filed in a different structured format, such as the XBRL or XML format. Compared to the Inline XBRL requirement that we are adopting, using the XBRL format would entail duplicative entry, which can adversely affect the quality and usability of the structured data as well as the efficiency and cost of preparation and review of the structured data.

⁴³⁴ Some studies have shown that investors use XBRL files often, even preferring them to non-XBRL files when both are available. See Yu Cong, Hui Du, and Miklos A. Vasarhelyi, *Are XBRL Files Being Accessed? Evidence from the SEC EDGAR Log File Dataset*, *Journal of Information Systems*, Vol. 32-3, 23–29 (2018).

⁴³⁵ See XBRL US Comment Letter.

Compared to the requirement to use Inline XBRL, the alternative of requiring affected funds to use XML could result in lower costs. However, compared to the amendments, XML would provide less flexibility in tagging complex information as well as less extensive data quality validation capabilities. Given the complexity of the information required to be tagged and its importance to investors, we believe the benefits of using Inline XBRL outweigh the higher costs compared to XML.⁴³⁶ One commenter supported using Inline XBRL compared to XML, arguing that financial information is more efficiently reported in Inline XBRL.⁴³⁷

As another alternative, we could have expanded the scope of prospectus disclosure information required to be tagged in Inline XBRL under the final rule. Compared to the final rule, this alternative would improve the timeliness and usability of the required disclosure information, but would potentially impose additional costs on affected funds. To the extent that the other required prospectus disclosures of affected funds contain information that is more specific to individual funds without sufficient comparability or aggregation utility, the benefits of having those additional required disclosures in a structured format may be lower than the more limited subset of disclosures that we are requiring affected funds to file in Inline XBRL. As another alternative, we could have narrowed the scope of prospectus disclosure information required to be tagged in Inline XBRL under the rule. Compared to the final rule, this alternative could decrease the timeliness and usability of the information required to be

⁴³⁶ In contrast, the information provided in Form 24F-2 is less complex and is generally only used by fund issuers and Commission staff for purposes of calculating certain registered investment companies' registration fees, so we have proposed to require Form 24F-2 information in a structured XML format rather than Inline XBRL.

⁴³⁷ See XBRL US Comment Letter.

disclosed, but could also potentially reduce costs for registrants. Overall, the prospectus disclosures that affected funds will be required to tag in Inline XBRL largely parallel the information that mutual funds and ETFs are required to disclose. We also believe these disclosures represent the information that will be most useful for investors that seek to use structured data to assist with investment decisions regarding affected funds.

We also are requiring issuers that file Form 24F-2 (including mutual funds and ETFs, as well as interval funds) to submit the form in a structured XML format.⁴³⁸ We believe using a structured data format will make it easier for issuers to accurately prepare and submit the information Form 24F-2 requires and will make the submitted information more useful to Commission staff. Automated validation processes could help issuers compute registration fees accurately before submitting the filing, which could reduce administrative burdens associated with correcting inaccurate filings. A structured filing format could also facilitate pre-population of previously-filed information. We estimate the cost of tagging Form 24F-2 in a structured XML format to be \$542 per fund.⁴³⁹

3. *Periodic Reporting Requirements*

We are adopting certain new annual report requirements for affected funds that file a short-form registration statement on Form N-2. These funds must include in their annual reports certain information that they currently disclose in their prospectus—a table of fees and expenses, share price information, and a table of senior securities—and a

⁴³⁸ See *supra* section II.I.1.d.

⁴³⁹ We assume that the burden of tagging Form 24F-2 in a structured XML format would be 2 hours for each filing. See *infra* section IV.B.6. At an estimated wage rate of \$271 per hour, the dollar cost for filing Form 24F-2 in a structured XML format is \$542 (2 hours x \$271 per hour) per fund.

discussion of material unresolved staff comments.⁴⁴⁰ In addition, all BDCs will be required to include financial highlights in their registration statements and annual reports.⁴⁴¹ We also are requiring all registered CEFs to provide management’s discussion of fund performance in their annual reports.⁴⁴² Finally, registered CEFs that rely on rule 8b-16(b) under the Investment Company Act to avoid annually updating their registration statements will be required to describe in their annual reports the fund’s current investment objectives and policies, and principal risks, and to provide more expansive disclosure about certain key changes that occurred during the relevant year in enough detail to allow investors to understand each change and how it may affect the fund.⁴⁴³ We believe these requirements will promote investor protection by making important information more readily accessible to investors.

With respect to affected funds filing short-form registration statements on Form N-2, the annual report requirements will compile certain information that is already available in a fund’s registration statement. This could be beneficial to some investors in these funds since information will be readily available in one document instead of investors needing to compile it from several sources. As previously discussed, given the ability of affected funds to use forward incorporation by reference under the short-form registration instruction, these funds’ annual reports may become a more convenient and comprehensive source of information about a particular seasoned fund, relative to that fund’s registration statement. At the same time, the annual report requirements may

⁴⁴⁰ See *supra* section II.I.2.a and section II.I.2.d.

⁴⁴¹ See *supra* section II.I.2.c.

⁴⁴² See *supra* section II.I.2.b.

⁴⁴³ See *supra* section II.I.5.

increase the compliance costs for seasoned funds because new information items will have to be added to the annual report. However, because the annual report will be incorporated by reference into the fund's prospectus, requiring disclosure in both the prospectus and annual report should not require duplicative disclosure. Moreover, specifying identical disclosure requirements in both places may facilitate forward incorporation by reference, by making clear that the same required disclosure will satisfy both requirements. Alternatively, we could have required affected funds to include in their annual reports more or less information from their registration statements. While requiring less information would reduce costs to affected funds by reducing the amount of required annual report disclosure, it could also make it more difficult for investors to find important fund information. Requiring affected funds to include more prospectus information in their annual reports could increase the length and complexity of annual reports and make them less useful to investors overall. This alternative would also increase affected funds' compliance costs.

The requirement to disclose material unresolved staff comments in the annual report is designed to mitigate the concern that other aspects of the amendments may reduce certain affected funds' incentives to resolve staff comments in a timely manner. We believe disclosure of material unresolved staff comments will likely provide important information to investors. This requirement may, however, impose certain compliance costs to the extent a seasoned fund does not timely resolve staff comments and hence will be required to provide such disclosure. We do not believe these disclosure costs will be significant because the information will be readily available to the affected fund. We recognize, however, there could be some costs to affected funds associated with compliance and legal review to the extent an affected fund wants to provide additional

information in its annual report disclosure beyond that provided in the fund’s written response to the staff’s comment (which would typically already be publicly available on EDGAR). We also recognize, as some commenters suggested, that determining whether a particular comment is “material” or “unresolved” involves some subjective judgment, which may contribute to compliance and legal costs.⁴⁴⁴

With respect to the requirement that BDCs provide financial highlights information, we believe investors will benefit from disclosure summarizing a BDC’s financial statements. We believe the costs associated with this requirement should be minimal since we understand that it is general market practice for BDCs to include this information in their registration statements.

We believe the requirement for registered CEFs to include MDFP disclosure in their annual shareholder reports will be beneficial to investors by helping them assess a fund’s performance over the prior year and complementing other information in the report, which may make the annual report disclosure more understandable as a whole. This requirement will also promote parity between different types of funds, as open-end funds and BDCs are already required to provide similar disclosure in their annual reports. This requirement will likely increase compliance burdens for registered CEFs, to the extent they do not voluntarily provide MDFP disclosure already. We believe that a majority of registered CEFs already provide MDFP-like disclosure in their annual shareholder reports. We estimate the annual cost of providing MDFP disclosure to be

⁴⁴⁴ See ICI Comment Letter; Invesco Comment Letter.

\$6,400 per registered CEF,⁴⁴⁵ although this cost will likely be lower for affected funds that already provide MDFP-like disclosure.

We considered adopting additional MDFP requirements, such as requirements to: (1) disclose the impact of particular investments (including large positions and/or significant investments) or investment types that contributed to or detracted from performance; (2) explain a fund's performance in relation to its index; (3) explain how the use of leverage affected fund performance; (4) explain the reason for and effect of any large cash or temporary defensive positions on fund performance; (5) explain the effect of any tax strategies, or the effects of taxes, on fund performance; (6) explain the effect of non-recurring or non-cash income on fund performance; (7) include general discussion of purchases and sales of fund shares and the effects of any share repurchases or tender offers on fund performance; and/or (8) disclose whether the fund has high portfolio turnover and the effect of portfolio turnover on fund performance. We also considered changing the average annual total return table to provide additional or more useful information to investors, such as requiring total return based on per-share NAV, in addition to total return based on current market price. Although one or more of these changes could result in additional, potentially helpful information for investors, we also considered the administrative costs that additional disclosure requirements would impose and have determined not to adopt them at this time.

⁴⁴⁵ For the purpose of the PRA, we estimate that the proposed amendments to require registered CEFs to provide MDFP in their annual reports will result in an additional 16 burden hours for registered CEFs. *See infra* section IV.B.3. We monetize the internal burden by multiplying the burden hours by an estimated wage rate of \$400 per hour (16 x \$400 = \$6,400).

Under the amendments to rule 8b-16, registered CEFs relying on paragraph (b) of the rule must describe in their annual reports the fund’s current investment objectives and policies, and principal risks, and certain key changes that occurred during the relevant year in enough detail to allow investors to understand each change and how it may affect the fund. We estimate that approximately 521 registered CEFs relied on rule 8b-16 as of December 31, 2019 and will therefore provide the new disclosure.⁴⁴⁶ These registered CEFs also will be required to preface disclosure of these key changes with a legend clarifying that the disclosures provide only a summary of certain changes that have occurred in the past year, and that the summary may not reflect all of the changes that have occurred. We believe these new disclosure requirements will allow investors in funds relying on rule 8b-16(b) to more easily identify and understand key information about their investments by providing such information in one place. Because these funds are already required to disclose in their annual reports the enumerated changes to specified Form N-2 disclosure items—and therefore already must have and maintain, among other things, updated information about the investment objectives, policies and principal risks that we are requiring them to disclose in full—the new requirement will likely add only a small incremental compliance burden.

4. *Discretionary Amendments to Incorporation by Reference Requirements*

The final rule will modernize Form N-2’s requirements for backward incorporation by reference for all affected funds.⁴⁴⁷ Specifically, we are requiring that an affected fund make information that is incorporated by reference into its prospectus or

⁴⁴⁶ See *infra* footnote 561.

⁴⁴⁷ See *supra* section II.I.4.

SAI, as well as the corresponding prospectus and SAI, readily available and accessible on a website maintained by or for the fund and identified in the fund's prospectus or SAI.

We believe this new requirement will improve the information's online accessibility for investors. In particular, this new requirement will make the incorporated information, prospectus, and SAI more accessible to retail investors online because we believe they may be more inclined to look at a fund's website for information than to search the EDGAR system.⁴⁴⁸ We recognize that investors without home internet access, depending on their ability and preference to access fund information electronically, might experience a reduction in their ability to access information that is incorporated by reference into its prospectus or SAI. However, affected funds will also be required to provide incorporated materials upon request free of charge, in recognition that some investors may prefer to review these materials in paper.⁴⁴⁹

This amendment also will facilitate the efficient use of incorporation by reference by affected funds. For example, if an investor requested a copy of the affected fund's prospectus in accordance with rule 173, the fund would in some cases need to deliver a much longer document if we did not amend Form N-2's backward incorporation by

⁴⁴⁸ For example, results from 2011 investor testing sponsored by the Commission suggest that an investor looking for a fund's annual report is most likely to seek it out on the fund's website. *See* Investor Testing of Selected Mutual Fund Annual Reports (Feb. 9, 2012), *available at* <https://www.sec.gov/comments/s7-08-15/s70815-3.pdf>. Additionally, a 2018 report by the Investment Company Institute suggests that over 90% of U.S. households owning mutual funds used the internet extensively. *See* ICI Research Perspective, Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, 2019 (Oct. 2019), *available at* <https://www.ici.org/pdf/per25-08.pdf>.

⁴⁴⁹ *See supra* paragraph accompanying footnote 410 (recognizing the effects of allowing affected funds to not deliver final prospectuses directly to investors if they meet certain requirements).

reference provisions.⁴⁵⁰ We do not, however, expect that the backward incorporation by reference amendment will substantially reduce the amount of information affected funds deliver to investors by mail or electronically. This is because we expect that most affected funds will rely on rules 172 and 173 to satisfy their prospectus delivery obligations. An issuer that uses these rules will satisfy its final prospectus delivery obligations by filing the prospectus with the Commission rather than delivering the prospectus and any incorporated material to investors.⁴⁵¹

We do not believe the requirement to make a fund's prospectus, SAI, and incorporated materials available on a website will generate significant compliance costs for affected funds because many funds currently post their annual and semi-annual reports and other fund information on their websites. We estimate the annual cost to comply with the website posting requirements to be \$496 per fund.⁴⁵²

Affected funds may also incur printing and mailing costs under the final rule if some investors request paper copies of the prospectus⁴⁵³ or of the information that has been incorporated by reference into the prospectus or SAI but not delivered with the prospectus or SAI.⁴⁵⁴ In another release, the Commission estimated that the annual printing and mailing cost associated with providing copies of prospectuses and other

⁴⁵⁰ See, e.g., *supra* footnote 365 and accompanying text.

⁴⁵¹ See *supra* section II.D.

⁴⁵² For the purpose of the PRA, we estimate an average burden to comply with the website posting requirements of 2 hours per fund. See *infra* section IV.B.1. The expected compliance cost associated with the proposed website posting requirements is calculated by multiplying the 2-hour burden by the estimated hourly wage based on published rates for webmasters (\$248).

⁴⁵³ See *supra* footnote 153.

⁴⁵⁴ See *supra* section II.I.4.

documents upon request would be approximately \$500 per registrant.⁴⁵⁵ We are similarly adopting a requirement to send prospectuses and related information in this release, and we have no reason to assume significant differences in the average lengths of the associated materials or the frequency of investor requests under the amendments we are adopting. We estimate that the printing and mailing costs associated with the new requirements will be approximately \$750 per fund in recognition that the requirement to deliver information that has been incorporated by reference may result in greater overall costs since affected funds that are eligible to file short-form registration statements under the final rule will be able to use incorporation by reference more frequently.⁴⁵⁶ We anticipate, however, that investors may be less likely to request copies of materials that have been incorporated by reference into an affected fund's prospectus or SAI, so we believe this requirement will only incrementally increase costs.

Alternatively, we could have retained Form N-2's current backward incorporation by reference requirements and continued to require funds to deliver incorporated materials to new investors. Because current General Instruction F of Form N-2 does not require affected funds to make incorporated materials available online, funds would not have to incur costs associated with website posting. However, because affected funds that choose to rely on rules 172 and 173 will be deemed to have delivered their disclosures upon filing with the Commission instead of giving them to investors, the current

⁴⁵⁵ See Variable Contract Summary Prospectus Adopting Release, *supra* footnote 345, at n.1233 and accompanying text.

⁴⁵⁶ We requested data regarding how often investors may request copies of prospectuses or incorporated materials, how many materials affected funds would incorporate by reference into their prospectuses or SAIs, and how lengthy those materials would be. Commenters did not provide any data in response.

backward incorporation delivery requirement will not result in delivery of incorporated materials to a fund's investors, thus making less accessible the disclosure materials that might affect their investment decision.

We are also modifying Form N-14 to decrease the disclosure burden of the form and reduce the length of Form N-14 prospectuses in certain circumstances.⁴⁵⁷ The amendments will allow BDCs to incorporate by reference to the same extent as registered CEFs. This will provide for more consistent treatment between registered CEFs and BDCs. We also are eliminating the requirement that registrants file with the Form N-14 registration statement the documents containing the information that is incorporated by reference into the prospectus or SAI, thus decreasing compliance costs. Commenters generally supported these changes.⁴⁵⁸

5. *Automatic or Immediate Effectiveness of Filings by Affected Funds Conducting Certain Continuous Offerings*

In response to comments, the final rule will allow any registered CEF or BDC that conducts continuous offerings under rule 415(a)(1)(ix) to file post-effective amendments and certain registration statements that become effective immediately upon filing or automatically 60 days after filing.⁴⁵⁹ We believe this rule amendment will allow these unlisted continuously-offered affected funds to maintain effective registration statements in a more efficient, cost-effective manner, similar to the benefits the final rule provides to affected funds that file short-form registration statements or qualify as WKSIs. Under the amendments, continuously-offered unlisted affected funds, which generally will not

⁴⁵⁷ See *supra* section II.B.3.b.

⁴⁵⁸ See Dechert Comment Letter; IPA Comment Letter.

⁴⁵⁹ See *supra* section II.D.

qualify as WKSIs or be eligible to file short-form registration statements because they do not have public float, will be able to more efficiently update their financial statements under section 10(a)(3) of the Securities Act to maintain effective registration statements while they engage in continuous offerings. One commenter stated that allowing continuously-offered unlisted affected funds to rely on rule 486 would benefit investors in these funds by allowing the funds to avoid the time and expense of an annual staff review of registration statements where no changes are made beyond immaterial updates and updates to audited financial information.⁴⁶⁰

As an alternative, we could have continued to limit rule 486 to interval funds. Such an alternative would have made it less efficient for certain continuously-offered unlisted affected funds to update their financial statements or make other changes to their registration statements relative to the processes available to all other funds that conduct continuous or delayed offerings under the Commission's rules.

IV. PAPERWORK REDUCTION ACT ANALYSIS

A. Background

Certain provisions of the final amendments contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 (PRA).⁴⁶¹ We are submitting the final amendments to the Office of Management and Budget (OMB) for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The hours and costs associated with preparing disclosure, filing forms, and retaining records constitute reporting and cost burdens imposed by the collections of information. An agency may not

⁴⁶⁰ See ABA Comment Letter.

⁴⁶¹ 44 U.S.C. 3501 *et seq.*

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 titles for the collection of information are summarized in Table 5 below.

TABLE 5: COLLECTIONS OF INFORMATION

Title	OMB Control Number
Form N-2	3235-0026
Investment Company Interactive Data ¹	3235-0642
Rule 30e-1	3235-0025
Form 10-K	3235-0063
Family of rules under section 8(b) of the Investment Company Act of 1940 ²	3235-0176
Rule 163	3235-0619
Rule 433	3235-0617
Rule 173	3235-0618
Form 24F-2	3235-0456
Form S-1	3235-0065
Form S-3	3235-0073
Form N-14	3235-0336
Form F-1	3235-0258
Form F-3	3235-0256

Notes:

1. Recently, we issued a release that, among other things, retitled this collection of information (previously, “Mutual Fund Interactive Data”) “Investment Company Interactive Data.” See Variable Contract Summary Prospectus Adopting Release, *supra* footnote 345.
2. The paperwork burdens for the rules under section 8(b) of the Investment Company Act are imposed through the forms and reports that are subject to the requirements in these rules and are reflected in the PRA burdens of those documents. To avoid a PRA inventory reflecting duplicative burdens and for administrative convenience, we assign a one-hour burden to these rules.

The rules, forms, and regulations listed above were adopted under the Securities Act, the Exchange Act, or the Investment Company Act. They set forth the disclosure requirements for registration statements, prospectuses, periodic reports, and certified shareholder reports that are prepared by registrants to help investors make informed investment and voting decisions. They also permit additional communications by registrants during a registered offering. The final amendments will allow affected funds to use the securities offering rules that are already available to operating companies. In

addition, the final rule includes amendments to our rules and forms intended to tailor the disclosure and regulatory framework to affected funds.

The Investment Company Interactive Data collection of information references current requirements for certain registered investment companies to submit to the Commission information included in their registration statements, or information included in or amended by any post-effective amendments to such registration statements, in response to certain form items in interactive data format. It also references the requirement for funds to submit an Interactive Data File to the Commission for any form of prospectus filed pursuant to rule 497(c) or (e) that includes information in response to certain form items. The final amendment will include several new structured data requirements, including requirements for: (1) BDCs to submit financial statement information using Inline XBRL format; (2) affected funds to include structured cover page information in their registration statements on Form N-2 using Inline XBRL format; and (3) affected funds to tag certain prospectus information using Inline XBRL format.⁴⁶² Although the interactive data filing requirements are included in the Form N-2 instructions, we are separately reflecting the hour and cost burdens for these requirements in the burden estimate for Investment Company Interactive Data and not in the estimate for Form N-2.

The information collection requirements related to registration statements and Exchange Act reports are mandatory. In addition, there is no mandatory retention period for the information disclosed, and the information gathered will be made publicly

⁴⁶² We are also adopting new requirements for funds that file on Form 24F-2 to submit the form in XML format. We account for the burdens associated with this requirement in *infra* section IV.B.6.

available. The information collection requirements related to the communications and prospectus delivery rules we are adopting apply only to affected funds and other offering participants choosing to rely on them. There will be a mandatory record retention period with respect to the communications and prospectus delivery information collections. Under rule 433, issuers and offering participants must retain all free writing prospectuses that have been used, for three years following the date of the initial bona fide offering of the securities in question that were not filed with the Commission. Moreover, free writing prospectuses that are made by or on behalf of an affected fund, and free writing prospectuses that are broadly disseminated by another offering participant, will have to be filed and will be publicly available on EDGAR, whereas free writing prospectuses prepared by or on behalf of, or used or referred to, by offering participants other than the issuer will not have to be filed.

B. Summary of the Amendments and Impact on Information Collections

We are amending several rules and forms to modify the registration, communications, and offering processes for affected funds under the Securities Act and Investment Company Act. The amendments are designed to carry out the requirements of section 803 of the BDC Act and section 509 of the Registered CEF Act. The amendments generally will allow affected funds to use the securities offering rules that are already available to operating companies.

The amendments principally affect five aspects of the application of our securities offering rules to affected funds. First, the amendments will streamline the registration process under the Securities Act for affected funds to allow them to sell securities more quickly and efficiently under a shelf registration process tailored to affected funds. Second, the amendments will allow affected funds to qualify as WKSIs under rule 405

under the Securities Act. Third, the amendments will allow affected funds to satisfy final prospectus delivery requirements using the same method as operating companies. Fourth, the amendments will allow affected funds to use communications rules currently available to operating companies, such as the use of the safe harbors for disseminating certain factual business information, forward-looking information, a “free writing prospectus,” and broker-dealer research reports. Finally, the amendments will tailor affected funds’ disclosure and regulatory framework in light of the amendments to the offering rules applicable to them. These amendments include new structured data requirements, new disclosure requirements for annual reports, and a requirement for interval funds to pay securities registration fees using the same method that mutual funds and ETFs use today.

We anticipate that several provisions of the amendments will increase the burdens and costs for affected funds that will be subject to the amendments. We have estimated the average number of hours an affected fund will spend to prepare and file the information collections and the average hourly rate for the services of outside professionals. In deriving our estimates, we recognize that the burdens will likely vary among individual affected funds based on a number of factors, including their size and the nature of their investment activities.⁴⁶³ In addition, some affected funds may experience costs in excess of our estimates, and some may experience less than the estimated average costs.

In addition to these amendments relating to affected funds, we are amending several rules and forms to enable certain ETPs that are not registered under the

⁴⁶³ See *supra* footnotes 355 and 357.

Investment Company Act to elect to register offerings of an indeterminate amount of exchange-traded vehicle securities and pay registration fees for these offerings on an annual net basis. We have estimated the average number of additional hours that such ETPs will spend when filing registration statements for these offerings to prepare and file the information collections and the average hourly rate for the services of outside professionals. We anticipate that the amendments will result in a decrease in the number of registration statements filed by these issuers and that, overall, these amendments will reduce the burdens and costs for these issuers.

1. *Amendments to Form N-2 Registration Statement*

Form N-2 is the form used by an affected fund to register offerings under the Securities Act and, as applicable, to register as an investment company under the Investment Company Act.

The amendments to Form N-2 will increase the existing disclosure burdens of the form by requiring:

- Affected funds to use new check boxes on the cover page to provide information about the fund, the purpose of the filing, and the type of offering, including whether the form is being used for automatic shelf registration;⁴⁶⁴
- BDCs to include financial highlights disclosure in their registration statements, as registered CEFs are currently required to do;⁴⁶⁵
- Affected funds to provide new undertakings to be furnished in registration statements being filed pursuant to rule 415;⁴⁶⁶ and

⁴⁶⁴ See *supra* section II.I.1.b; see also amended cover page of Form N-2.

⁴⁶⁵ See *supra* section II.I.2.c; see also Instruction 1 to Item 4 of amended Form N-2.

- Affected funds to make certain documents available online if they incorporate them by reference, including the prospectus, SAI, and any Exchange Act reports filed under section 13 or section 15(d) of the Exchange Act that are incorporated by reference into the fund's prospectus or SAI.⁴⁶⁷

At the same time, the amendments to Form N-2 will decrease existing burdens for the form by:

- Permitting eligible affected funds to forward incorporate by reference Exchange Act reports, which will reduce the need for such funds to file a post-effective amendment or a prospectus supplement to update information in the registration statement.⁴⁶⁸

⁴⁶⁶ See *supra* footnote 63 and accompanying paragraph; see also Items 34.3-7 of amended Form N-2.

⁴⁶⁷ See *supra* section II.I.4; see also General Instruction F.4.a of amended Form N-2.

⁴⁶⁸ See *supra* section II.B.3.e; see also General Instruction F.3.b of amended Form N-2.

TABLE 6: CURRENTLY APPROVED FORM N-2 PRA ESTIMATES¹

	Internal Burden		Wage Rate ²	Cost of Internal Burden	Annual External Cost Burden
BURDEN PER INITIAL REGISTRATION STATEMENT					
Total burden per registration statement	517.6 hours	×	\$269 (blended rate of \$365 for compliance attorney and \$172 for intermediate accountant)	\$139,234	\$32,241
Number of annual initial registration statements	×	136		×	136
Total annual burden	70,394 hours			\$18,935,824	\$4,384,776
BURDEN PER POST-EFFECTIVE AMENDMENT					
Total burden per post-effective amendment	125 hours	×	\$269 (blended rate of \$365 for compliance attorney and \$172 for intermediate accountant)	\$33,625	\$11,114
Number of annual post-effective amendments	×	30		×	30
Total annual burden	3,751 hours			\$1,008,750	\$333,420
TOTAL BURDEN					
Total initial registration statement burden	70,394 hours			\$18,935,824	\$4,384,776
Total post-effective amendment burden	3,751 hours			\$1,008,750	\$333,420
Total annual burden	74,145 hours			\$19,944,574	\$4,718,196

Notes:

1. These estimates were previously submitted to OMB in connection with a revision of the then-currently-approved collection in 2020.
2. Derived from SIFMA's Management & Professional Earnings in the Securities Industry 2013 (modified to account for an 1,800-hour work year; multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead, and adjusted for inflation).

TABLE 7: PROPOSED FORM N-2 PRA ESTIMATES¹

	Internal Burden		Wage Rate ²	Cost of Internal Burden	Annual External Cost Burden
BURDEN FOR INITIAL REGISTRATION STATEMENT					
Preparing and filing initial registration statement	171.67 hours	×	\$401 (attorney)	\$68,838.33	\$31,941
	171.67 hours	×	\$210 (paralegal)	\$36,050	
	171.67 hours	×	\$449 (assistant general counsel)	\$77,078.33	
Total burden per registration statement	515 hours			\$181,966.67	\$31,941
Number of annual initial registration statements	×	138		×	138
Total annual burden	71,070 hours			\$25,111,399.08	\$4,407,858
BURDEN FOR POST-EFFECTIVE AMENDMENT					
Preparing and filing post-effective amendments	35.67 hours	×	\$401 (attorney)	\$14,302.33	\$10,814
	35.67 hours	×	\$210 (paralegal)	\$7,490	
	35.67 hours	×	\$449 (assistant general counsel)	\$16,014.33	
Total burden per post-effective amendment	107 hours			\$37,806.67	\$10,814
Number of annual post-effective amendments	×	190		×	190
Total annual burden	20,330 hours			\$7,183,266.70	\$2,054,660
ADDITIONAL BURDEN FOR AFFECTED FUNDS					
Proposed new check box requirements	0.1667	×	\$352 (compliance attorney)	\$58.67	\$0
	0.1667	×	\$319 (senior programmer)	\$53.17	
	0.1667	×	\$239 (webmaster)	\$39.83	
Proposed online availability requirement	0.67 hours	×	\$352 (compliance attorney)	\$234.67	\$0
	0.67 hours	×	\$319 (senior programmer)	\$212.67	
	0.67 hours	×	\$239 (webmaster)	\$159.33	
Total additional burden per affected fund	2.5 hours			\$758.33	\$0
Number of affected funds	×	807		×	807
Total annual burden	2,018 hours			\$611,975	\$0
ADDITIONAL BURDEN FOR BDCS					
Financial highlights requirement	0.5 hours	×	\$352 (compliance attorney)	\$176	\$0
	0.5 hours	×	\$319 (senior programmer)	\$159.50	
	0.5 hours	×	\$239 (webmaster)	\$119.50	
Total additional burden per BDC	1.5 hours			\$455	\$0
Number of BDCs	×	103		×	103
Total annual burden	155 hours			\$46,865	\$0
TOTAL BURDEN					
Total initial registration statement burden	71,070 hours			\$25,111,399.08	\$4,407,858
Total post-effective amendment burden	20,330 hours			\$7,183,266.70	\$2,054,660
Total additional burden for affected funds	2,018 hours			\$611,975	\$0
Total additional burden for BDCs	155 hours			\$46,865	\$0
Total annual burden	93,573 hours			\$32,953,505.78	\$6,462,518

Notes:

1. See Proposing Release, *supra* footnote 10, at section IV.B.1.

2. See *supra* Table 6, at footnote 2.

TABLE 8: FINAL FORM N-2 PRA ESTIMATES

	Internal Burden		Wage Rate ¹	Cost of Internal Burden	Annual External Cost Burden
BURDEN FOR INITIAL REGISTRATION STATEMENT					
Total burden per registration statement	517.6 hours	×	\$269 (blended rate of \$365 for compliance attorney and \$172 for intermediate accountant)	\$139,234	\$32,241
Number of annual initial registration statements	×			×	×
	140 ^{2,3}			140 ^{2,3}	140 ^{2,3}
Total annual burden	72,464 hours			\$19,492,760	\$4,513,740
BURDEN FOR POST-EFFECTIVE AMENDMENT					
Total burden per post-effective amendment	125 hours	×	\$269 (blended rate of \$365 for compliance attorney and \$172 for intermediate accountant)	\$33,625	\$11,114
Number of annual post-effective amendments	×			×	×
	158 ^{2,4}			158 ^{2,4}	158 ^{2,4}
Total annual burden	19,750 hours			\$5,312,750	\$1,756,012
ADDITIONAL BURDEN FOR AFFECTED FUNDS					
New check box requirements	0.1667 hours	×	\$365 (compliance attorney) ²	\$60.85	
	0.1667 hours	×	\$331 (senior programmer) ²	\$55.18	\$0
	0.1667 hours	×	\$248 (webmaster) ²	\$41.34	
Online availability requirement	2 hours	×	\$248 (webmaster) ^{2,4}	\$496	\$0
Total additional burden per affected fund	2.5 hours			\$653.37	\$0
Number of affected funds	×			×	×
	791			791	791
Total annual burden	1,978 hours			\$516,815.67	\$0
ADDITIONAL BURDEN FOR BDCS					
Financial highlights requirement	0.5 hours	×	\$365 (compliance attorney) ²	\$182.50	
	0.5 hours	×	\$331 (senior programmer) ²	\$165.50	\$0
	0.5 hours	×	\$248 (webmaster) ²	\$124	
Total additional burden per BDC	1.5 hours			\$472	\$0
Number of BDCs	×			×	×
	105			105	105
Total annual burden	158 hours			\$49,560	\$0
TOTAL BURDEN					
Total initial registration statement burden	72,464 hours			\$19,492,760	\$4,513,740
Total post-effective amendment burden	19,750 hours			\$5,312,750	\$1,756,012
Total additional burden for affected funds	1,978 hours			\$516,815.67	\$0
Total additional burden for	158 hours			\$49,560	\$0

BDCs			
Total annual burden	94,350 hours	\$25,371,885.70	\$6,269,752

Notes:

1. See *supra* Table 6, at footnote 2. In a change from the Proposing Release, we have revised the wage rate categories for existing Form N-2 burdens, consistent with the currently-approved Form N-2 PRA burden estimates.

2. Estimate revised to reflect updated industry data.

3. We considered whether deeming interval funds to have registered an indefinite number of shares under the amendments to rules 23c-3 and 24f-2 will result in fewer registration statement filings since these funds will no longer need to file registration statements to register additional shares. Based on staff analysis of interval fund filings between January 1, 2017 and December 31, 2019, interval funds very rarely filed registrations statements on Form N-2 solely to register additional shares (*i.e.*, the filing typically also updated the fund's financial statements or included other changes). On average, interval funds filed seven Form N-2 registration statements each year during this period that, among other things, registered additional shares. As a result, for purposes of this PRA estimate, we are not reducing the estimated number of Form N-2 filings to account for the change in how interval funds register additional shares.

4. Estimate revised to reflect the average number of post-effective amendments filed between January 1, 2017 and December 31, 2019 (286 post-effective amendments), minus an estimated reduction of 128 post-effective amendments resulting from the ability of affected funds that are eligible to file short-form registration statements to forward incorporate by reference information into their registration statements. The estimated reduction in the number of post-effective amendment filings has been increased from 112 to 128 filings to account for an increase in the percentage of affected funds that will be eligible to file short-form registration statements (based on updated industry data) and to account for post-effective amendments under rule 486(b) filed by funds that have received relevant staff no-action letters (an average of approximately 29 filings per year over the three-year period). See *supra* Section II.D (discussing relevant staff no-action letters); Proposing Release, *supra* footnote 10, at n.447 (discussing the initial estimated reduction in the number of post-effective amendments of 112).

Table 6 above summarizes the current PRA estimates associated with the requirements of Form N-2. Table 7 summarized the proposed PRA estimates included in the Proposing Release.⁴⁶⁹ Table 8 summarizes the final PRA estimates associated with Form N-2 as amended. We did not receive public comment on our proposed PRA estimates, but we are revising our estimates as a result of updated industry data. Specifically, we are revising the estimated wage rates, the estimated number of affected funds, and the estimated number of annual initial registration statement and post-effective amendment filings to reflect updated industry data.

As summarized in Table 8 above, we estimate that the total hour burdens and time costs associated with Form N-2 will be an aggregate annual burden of 94,350 hours at an aggregate annual cost of internal burden of \$25,371,886. We estimate an aggregate annual external time cost of \$6,269,752.

2. *Structured Data Reporting Requirements*

We are amending Form N-2, as well as Regulation S-K and Regulation S-T,⁴⁷⁰ to require certain new structured data reporting requirements for registered CEFs and BDCs.⁴⁷¹ Specifically, the amendments will require:

⁴⁶⁹ See Proposing Release, *supra* footnote 10, at section IV.B.1.

⁴⁷⁰ See 17 CFR part 229 [OMB Control No. 3235-0071] (Regulation S-K specifies the requirements for exhibits to registration statements and reports); 17 CFR part 232 [OMB Control No. 3235-0424] (Regulation S-T specifies the requirements that govern the electronic submission of documents). Specifically, we are amending rule 601 of Regulation S-K, and rules 11 and 405 of Regulation S-T. The additional collection of information burden that will result from the amendments to rule 601 of Regulation S-K, rules 11 and 405 of Regulation S-T, and Forms N-2 and N-CSR to require structured data reporting for affected funds are included in our burden estimates for the “Investment Company Interactive Data” collection of information, and do not impose any separate burden aside from that described in our discussion of the burden estimates for this collection of information.

- BDCs to submit financial statement information using Inline XBRL format, as is currently required of operating companies.⁴⁷² The respondents for this collection of information are an estimated 105 BDCs.
- Affected funds to include structured cover page information in their registration statements on Form N-2 using Inline XBRL, including the tagging of the new check boxes to the cover page of Form N-2.⁴⁷³ The respondents for this collection of information are an estimated 791 affected funds. As demonstrated in Table 9 below, we do not believe the cover page tagging requirement will result in significant additional burdens for affected funds.
- Affected funds to tag certain Form N-2 disclosure items using Inline XBRL.⁴⁷⁴ The respondents for this collection of information are an estimated 791 affected funds.

The purposes of these information collections are to make financial information easier for investors to analyze and to help automate regulatory filings and business

⁴⁷¹ We also are amending Form 24F-2 to require submission of this filing in a structured XML format. We discuss the PRA burdens of this and other amendments to the form below. *See infra* section IV.B.6.

⁴⁷² *See supra* section II.I.1.a; *see also* amended rule 601(b)(101) of Regulation S-K; amended rule 405(b)(3)(i) of Regulation of S-T.

⁴⁷³ *See supra* section II.I.1.b; *see also* General Instruction I.1 of amended Form N-2; amended rule 405(b)(3)(ii) of Regulation S-T.

⁴⁷⁴ *See supra* section II.I.1.c; *see also* General Instruction I.2-3 of amended Form N-2; amended rule 405(b)(3)(iii) of Regulation S-T. The amendments will require the following prospectus disclosure items be tagged using Inline XBRL: Fee Table; Senior Securities Table; Investment Objectives and Policies; Risk Factors; Share Price Data; and Capital Stock, Long-Term Debt, and Other Securities.

A seasoned fund filing a short-form registration statement on Form N-2 also will be required to tag any information that is incorporated by reference from an Exchange Act report, such as those on Form N-CSR, 10-K, 10-Q, or 8-K, in response to a disclosure item of the registration statement that is required to be tagged. *See supra* footnote 241 and accompanying text.

information processing, and to reduce the current disparity between operating companies and BDCs with respect to the accessibility of information they provide to the market.

These collections of information are mandatory for the relevant respondents, discussed for each collection below. Confidential information will not be disclosed pursuant to these new reporting requirements.

TABLE 9: PROPOSED AND FINAL STRUCTURED DATA REPORTING PRA ANALYSIS

	Initial Hours	Annual Hours ¹	Initial Cost Burden	Annual Cost Burden
PROPOSED ESTIMATES²				
BDC Financial Statement Information—Per BDC Response (I)	81 hours	65.81 hours	\$9,262.50	\$7,525.78
Number of BDC Responses Per Year		× 463.5 ²		× 463.5 ²
Total Annual Burden		30,503 hours		\$3,488,199.03
Affected Funds Cover Page Information on Form N 2 – Per Affected Fund Response (II)	0 hours	1 hour	\$0	\$0
Number of Affected Fund Responses Per Year		× 807		× 807
Total Annual Burden		807 hours		\$0
Affected Funds Form N-2 Disclosure Items – Per Affected Fund Response (III)	15.25 hours	12.8 hours	\$1,350.00	\$1,096.88
Number of Affected Fund Responses Per Year		× 1097.5		× 1097.5
Total Annual Burden		14,048.26 hours		\$1,203,825.80
Combined Total Annual Burden		45,358.26 hours		\$4,692,024.83
FINAL ESTIMATES				
BDC Financial Statement Information—Per BDC Response (I)	81 hours	65.81 hours	\$9,262.50	\$7,525.78
Number of BDC Responses Per Year		× 472.5		× 472.5
Total Annual Burden		31,095 hours		\$3,555,931
Affected Funds Cover Page Information on Form N-2 – Per Affected Fund Response (II)		1 hour		\$0
Number of Affected Fund Responses Per Year		× 791		× 791
Total Annual Burden		791 hours		\$0
Affected Funds Form N-2 Disclosure Items (III)	15.25 hours	12.8 hours	\$1,350.00	\$1,097
Number of Affected Fund Responses Per Year		× 1,076		× 1,076
Total Annual Burden		13,773 hours		\$1,180,372
Combined Total Annual Burden		45,659 hours		\$4,736,303

Notes:

1. Includes initial and ongoing burden estimates annualized over a three-year period. Here, as discussed in the Proposing Release, *supra* footnote 10, at section V.B.2, we assumed that the one-time cost would result in a 50% incremental increase in the internal burdens and external costs of the BDC financial information and Form N-2 disclosure requirements (items I and III in the chart above) during the first year, and would subsequently decline in the second and third years by 75% from the immediately-preceding year.
2. The proposed estimates are discussed in additional detail in the Proposing Release, *supra* footnote 10, at section V.B.2.

Table 9 summarizes the proposed PRA estimates included in the Proposing Release and the final PRA estimates for the structured data reporting requirements. We did not receive public comment on our proposed PRA estimates, but we are revising our estimates as a result of updated industry data. Specifically, we are revising the estimated number of BDCs and affected funds to reflect updated industry data.

As summarized in Table 9, we estimate that the total hour burdens and time costs associated with the structured data reporting requirements will be an aggregate annual burden of 45,659 hours. We estimate an aggregate annual external time cost of \$4,736,303.

3. *New Annual Reporting Requirements under Rule 30e-1 and Exchange Act Periodic Reporting Requirements for BDCs*

Several of the amendments, such as the amendments that would allow certain affected funds to use an automatic shelf registration statement or to forward incorporate by reference Exchange Act reports, may raise the importance of an affected fund's Exchange Act reports to investors.⁴⁷⁵ In light of this, we are adopting new disclosure requirements for affected funds' annual reports. Specifically, we are amending:

- Form N-2 to require affected funds using the short-form registration statement to disclose in their annual reports a fee and expense table, share price data, a senior

⁴⁷⁵ See *supra* section II.I.2.

- securities table, and unresolved staff comments regarding the fund’s periodic or current reports or registration statement;⁴⁷⁶
- Form N-2 to require registered CEFs to provide MDFP in their annual reports;⁴⁷⁷
 - Form N-2 to require BDCs to include financial highlights in their annual reports on Form 10-K;⁴⁷⁸ and
 - Rule 8b-16 to require a registered CEF that relies on paragraph (b) of that rule to describe in its annual reports its current investment objectives and policies, and principal risks, and certain key changes that occurred during the relevant year in enough detail to allow investors to understand each change and how it may affect the fund.⁴⁷⁹

The collection of information burdens under these amendments correspond to information collections under rule 30e-1 for registered CEFs and Form 10-K for BDCs. Rule 30e-1 generally requires registered investment companies to transmit to their shareholders, at least semi-annually, reports containing the information that is required to be included in such reports by the fund’s registration statement form under the Investment Company Act. BDCs, like operating companies, are required to file annual reports on Form 10-K pursuant to section 13 or 15(d) of the Exchange Act.

⁴⁷⁶ See *supra* section II.I.2.a; see also new Instructions 4.h.(1) (senior securities table), 4.h.(2) (fee and expense table), 4.h.(3) (share price data), and 4.h.(4) (unresolved staff comments) to Item 24 of amended Form N-2.

⁴⁷⁷ See *supra* section II.I.2.b; see also new Instruction 4.g to Item 24 of amended Form N-2.

⁴⁷⁸ See *supra* section II.I.2.c; see also Instruction 1 to Item 4 of amended Form N-2; new Instruction 10 to Item 24 of amended Form N-2. As discussed above, BDCs also will be required to include financial highlights in their registration statements on Form N-2. See *supra* section IV.B.1.

⁴⁷⁹ See *supra* section II.I.5; see also amended rule 8b-16.

The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take an affected fund to prepare and review disclosure required under the amendments. For purposes of the PRA, the burden is allocated between internal burden hours and outside professional costs. For these purposes, we estimate that 75% of the burden of preparing annual reports under rule 30e-1 and on Form 10-K is undertaken by the fund internally, while 25% of this burden is undertaken by outside professionals, such as outside counsel and independent auditors, retained by the fund at an average cost of \$400 per hour.⁴⁸⁰

TABLE 10: RULE 30E-1 INCREMENTAL BURDEN ESTIMATES

	Number of Estimated Affected Responses (A)	Burden Hour Increase per Current Affected Response (B)	Increase in Burden Hours for Current Affected Responses (C) = (A) x (B)	Increase in Company Hours for Current Affected Responses (D) = (C) x 0.75	Increase in Professional Hours for Current Affected Responses (E) = (C) x 0.25	Increase in Professional Costs for Current Affected Responses (F) = (E) x \$400
PROPOSED ESTIMATES¹						
MDFP requirement	704	16	11,264	8,448	2,816	\$1,126,400
Requirements to disclose fee and expense table, share price data, a senior securities table, and unresolved staff comments	457	3	1,371	1,028	343	\$137,200
Amendments to rule 8b-16(b)	704	4	2,816	2,112	704	\$281,600
Total estimated burdens				11,588 hours		\$1,545,200²
FINAL ESTIMATES						
MDFP requirement	686 ³	16	10,976	8,232	2,744	\$1,097,600
Requirements to disclose fee and expense table, share price	455 ³	3	1,365	1,024	341	\$136,400

⁴⁸⁰ We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services but, for purposes of this PRA analysis for rule 30e-1 and Form 10-K, we estimate that such costs would be an average of \$400 per hour. This estimate is based on consultations with several registrants, law firms, and persons who regularly assist registrants in preparing and filing reports with the Commission.

data, a senior securities table, and unresolved staff comments						
Amendments to rule 8b-16(b)	521 ^{3, 4}	5 ⁵	2,605	1,954	651	\$260,400
Total estimated burdens				11,210 hours		\$1,494,400

Notes:

1. See Proposing Release, *supra* footnote 10, at section V.B.3.
2. The Proposing Release reflected an estimate of \$1,545,100. Since we are rounding internal burden and external cost estimates to the nearest whole number in this section, this table reflects an estimated annual cost burden of \$1,545,200.
3. Revised to reflect updated industry data.
4. Revised to recognize that not all registered CEFs rely on rule 8b-16(b).
5. Revised to reflect a change from the proposed requirements.

Table 10 summarizes the proposed incremental PRA burden estimates and the final incremental PRA burden estimates associated with the new annual report requirements for registered CEFs. We did not receive comments on our proposed estimates, but we have revised them as a result of updated industry data and changes to the proposed amendments. Specifically, we are revising the estimated number of registered CEFs that will be subject to the new annual report requirements to reflect updated industry data and the estimated burden hours associated with the amendments to rule 8b-16(b). As summarized in Table 10 above, the revised additional burdens associated with the new annual report requirements for registered CEFs for purposes of the rule 30e-1 collection of information is 11,210 hours for internal time and external costs of \$1,494,400.

TABLE 11: FORM 10-K INCREMENTAL BURDEN ESTIMATES

	Number of Estimated Affected Responses (A)	Burden Hour Increase per Current Affected Response (B)	Increase in Burden Hours for Current Affected Responses (C) = (A) x (B)	Increase in Company Hours for Current Affected Responses (D) = (C) x 0.75	Increase in Professional Hours for Current Affected Responses (E) = (C) x 0.25	Increase in Professional Costs for Current Affected Responses (F) = (E) x \$400
PROPOSED ESTIMATES¹						
Requirements to disclose fee and expense table, share price data, a senior securities table, and unresolved staff comments	43	3	129	97	32	\$12,800
Financial highlights requirement	103	1.5	155	116	39	\$15,600

Total estimated burdens				213 hours		\$28,400
FINAL ESTIMATES						
Requirements to disclose fee and expense table, share price data, a senior securities table, and unresolved staff comments	44 ²	3	132	99	33	\$13,200
Financial highlights requirement	105 ²	1.5	158	119	40	\$16,000
Total estimated burdens				218 hours		\$29,200
Notes:						
1. See Proposing Release, <i>supra</i> footnote 10, at section V.B.3.						
2. Revised to reflect updated industry data.						

Table 11 summarizes the proposed incremental PRA burden estimates and the final incremental PRA burden estimates associated with the new annual report requirements for BDCs. We did not receive comments on our proposed estimates, but we have revised them as a result of updated industry data. Specifically, we are revising the estimated number of BDCs that will be subject to the new annual report requirements to reflect updated industry data. As summarized in Table 11 above, the revised additional burdens associated with the new annual report requirements for BDCs for purposes of the Form 10-K collection of information is 218 hours for internal time and external costs of \$29,200.

TABLE 12: REQUESTED PAPERWORK BURDEN UNDER THE AMENDMENTS TO ANNUAL REPORT DISCLOSURE

Rule or Form	Current Annual Responses (A)	Current Burden Hours (B)	Current Cost Burden (C)	Number of Affected Responses (D)	Increase in Company Hours (E)	Increase in Professional Costs (F)	Annual Responses (G) = (A)	Burden Hours (H) = (B) + (E)	Cost Burden (I) = (C) + (F)
Current Burden ¹			Program Change			Requested Change in Burden			
30e-1	23,784	1,028,658	\$147,750,391	Varies (see Table 10) ²	11,210	\$1,494,400	23,784	1,039,868	\$149,244,791
10-K	8,137	14,198,780	\$1,895,224,719	Varies (see Table 11) ²	218	\$29,200	8,137	14,198,998	\$1,895,253,919

Notes:

1. The rule 30e-1 estimates are based on the last time the rule's information collections were approved, pursuant to a submission for a PRA extension in 2019. The Form 10-K estimates are based on the last time the form's information collections were approved, pursuant to a submission for a PRA extension in 2019.

2. As reflected in Table 10 and Table 11, the number of registered CEFs and the number of BDCs that will need to comply with the new annual report disclosure requirements will vary depending on the type of new disclosure, although all registered CEFs (686) and all BDCs (105) will be required to provide some additional annual report disclosure.

As summarized above in Table 12, the revised aggregate estimates, including the new amendments, for rule 30e-1 are 1,039,868 hours and \$149,244,791 in external costs. The revised aggregate estimates for Form 10-K, including the new amendments, are 14,198,998 hours and \$1,895,253,919 in external costs.

4. *Securities Offering Communications*

Rule 163 permits WKSIs to make unrestricted oral and written offers before filing a registration statement, but any written offer will be considered a free writing prospectus and will generally have to be filed upon filing a registration statement or amendment covering the securities. Rule 433 governs the use of free writing prospectuses by WKSIs and non-WKSI issuers after the filing of a registration statement. A free writing prospectus used by or on behalf of an affected fund, or free writing prospectuses that are broadly disseminated by another offering participant, are required to be filed with the Commission. We have adopted amendments to rules 163 and 433 that will permit affected funds to rely on these rules to use a free writing prospectus.

We did not receive public comment on our proposed estimates, but we have revised them as a result of updated industry data. Specifically, we are revising the estimated number of firms that will be subject to the rule to reflect updated industry data.

The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take a registrant to prepare and review disclosure required under the proposed amendments. For purposes of the

PRA, the burden is to be allocated between internal burden hours and outside professional costs. Table 13 below sets forth the percentage estimates we typically use for the burden allocation for each rule.⁴⁸¹ We also estimate that the average cost of retaining outside professional to be \$400 per hour.⁴⁸²

TABLE 13: Standard Estimated Burden Allocation for Securities Act Rules 163 and 433.

	Internal	Outside Professionals
ESTIMATED BURDEN ALLOCATION		
Rule 163	25%	75%
Rule 433	25%	75%

The table below illustrates the incremental change to the total annual compliance burden of affected rules, in hours and costs, as a result of the proposed amendments.

⁴⁸¹ We estimate that 25% of the burden of preparing and filing a free writing prospectus pursuant to rule 163 or rule 433 is undertaken by the issuer internally and that 75% of the burden is undertaken by outside professionals retained by the issuer.

⁴⁸² We recognize the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis, we estimate that such costs would be an average of \$400 per hour. This estimate is based on consultations with several registrants, law firms, and other persons who regularly assist registrants in preparing and filing reports with the Commission.

TABLE 14: Calculation of the Incremental Change in Burden Estimates of Current Responses Resulting from the Amendments.

	Number of Estimated Affected Responses (A) ^{1,2}	Burden Hour Increase per current Affected Response (B) ³	Increase in Burden Hours for Current Affected Responses (C)= (A) x (B)	Increase in Company Hours for Current Affected Responses (D)= (C) x 0.25 or 0.75	Increase in Professional Hours for Current Affected Responses (E)= (C) x 0.75 or 0.25	Increase in Professional Costs for Current Affected Responses (F)= (E) x \$400
INCREMENTAL CHANGE IN BURDEN ESTIMATES						
163	2	0.25	0.50	0.125	0.375	\$150
433	4,271	1.28	5,467	1,367	4,100	\$1,640,000

Notes:

1. For a number of reasons, many issuers that are currently eligible to be WKSIs do not make use of free writing prospectuses in reliance on rule 163. At the time the Commission adopted rule 163, it estimated that 53 free writing prospectuses would be filed under rule 163 per year. However, during the Commission's 2017 fiscal year, only 10 free writing prospectuses in reliance on rule 163 were filed with the Commission. We estimate that 100 affected funds would be eligible to be WKSIs. See *supra* section III.A.1. If current practices regarding the use of free writing prospectuses under rule 163 continue with respect to affected funds, we do not believe that these affected funds would significantly increase the number of free writing prospectuses under rule 163. Accordingly, we estimate that, on average, affected funds that are eligible to be WKSIs would file 2 free writing prospectuses under the amendments to rule 163 each year.
2. The most recent data that we have available shows that each operating company files an average of approximately 5.4 free writing prospectuses per year in reliance on rule 433. We estimate that there will be 791 affected funds filing approximately 4,271 free writing prospectuses. See *supra* section III.A.1.
3. The burden hour estimates for rules 163 and 433 are based on the last time the rules' information collections were approved, pursuant to a submission for a PRA extension in 2017. The conditions under rule 433 to use a free writing prospectus, require a free writing prospectus to contain more information and contribute to the greater burden hour than for a rule 163 free writing prospectus.

The following table summarizes the requested paperwork burden, including the estimated total reporting burdens and costs, under the proposed amendments.

TABLE 15: Requested Paperwork Burden under the Amendments to Securities Act Rules 163 and 433.

	Current Annual Responses (A)	Current Burden Hours (B)	Current Cost Burden (C)	Number of Affected Responses (D)	Increase in Company Hours (E)	Increase in Professional Costs (F)	Annual Responses (G) = (A)	Burden Hours (H) = (B) + (E)	Cost Burden (I) = (C) + (F)
CURRENT BURDEN			PROGRAM CHANGE			REQUESTED CHANGE IN BURDEN			
163	10	1	\$720	2	0.125	\$150	12	1.125	\$870
433	15,700	5,024	\$6,028,800	4,271	1,367	\$1,640,000	19,971	6,391	\$7,668,800

As summarized above in Table 15, the revised aggregate estimates, including the new amendments, for rule 163 are 1.125 hours, and \$870 in external costs. The revised

aggregate estimates for rule 433, including the new amendments, are 6,391 hours and \$7,669,017 in external costs.

5. *Prospectus Delivery Requirements*

Rule 173 requires the delivery of a copy of a final prospectus, or in lieu of a final prospectus, a notice to purchasers stating that a sale of securities was made based on a registration statement or in a transaction in which a final prospectus would have been required to have been delivered in the absence of rule 172.⁴⁸³ We have adopted amendments to rule 173 to remove the exclusion for offerings of affected funds.⁴⁸⁴

We did not receive public comment on our proposed PRA estimates for rule 173. We have revised our estimates regarding the number of funds likely to rely on rule 173, and to reflect updated industry data.⁴⁸⁵ Specifically, based on a review of Form N-2 filings made with the Commission, we are revising downward the proposed estimate of the number of affected funds expected to rely on rule 173 as a result of the amendments, and thus incur burdens associated with the rule.

The burden estimates were calculated by multiplying the estimated number of registrants likely to rely on rule 173 by the number of responses per registrant by the estimated time it would take compile the necessary information and data, prepare and review disclosure, file documents and retain records for issuers that choose to rely on rule 173. We assume, similar to operating companies that rely on rule 173, that each affected

⁴⁸³ *See supra* footnote 153.

⁴⁸⁴ *See supra* section II.D.

⁴⁸⁵ This estimate is based on the last time rule 173's information collections were approved, in 2017.

fund will incur 100% of the burden. The table below illustrates the incremental change to the total annual burden for affected funds as a result of the amendments.

TABLE 16: RULE 173 (Calculation of the Incremental Change in Burden Estimates of Current Responses Resulting from the Amendments)

	Number of Estimated Affected Responses (A) ¹	Burden Hour per current Affected Response (B) ²	Burden Hours for Current Affected Responses (C) = (A) x (B)	Increase in Professional Hours for Current Affected Responses	Increase in Professional Costs for Current Affect Responses
173	16,634,572	0.0167	277,797	0	\$0

Notes:

1. In the Proposing Release we estimated that all 807 affected funds would rely on rule 173. See *supra* footnote 10 at section V.B.5. However, because only a fund with an effective Securities Act registration statement may rely on rule 173, we are revising our estimates. Based on our staff’s review of Form N-2 Securities Act registration statements filed annually between 2017 and 2019, we estimate 382 annual filings, each by a different affected fund. We estimate that each such fund will provide 43,546 responses annually, for a total of 16,634,572 annual responses per year (382 funds x 43,546 responses annually = 16,634,572).
2. The estimated burden hour per response of 0.0167 hours derives from the most recently-approved rule 173 PRA submission (2017).

The following table summarizes the total PRA burden, including the estimated total reporting burdens and costs, for rule 173 as a result of the amendments. As reflected below, the revised aggregate hourly burden associated with rule 173 as a result of the amendments is 4,159,688 internal burden hours, with no external costs.

TABLE 17: RULE 173 (Requested Paperwork Burden under the Amendments)

	Current Annual Responses (A)	Current Burden Hours (B)	Current Cost Burden (C)	Number of Affected Responses (D)	Increase in Company Hours (E)	Increase in Professional Costs (F)	Annual Responses (A) + (D)	Burden Hours (B) + (E)	Cost Burden (C) + (F)
	CURRENT BURDEN			PROGRAM CHANGE			REQUESTED CHANGE IN BURDEN		
173	232,448,548	3,881,891	\$0	+ 16,634,572	+ 277,797	\$0	249,083,120	4,159,688	\$0

6. *Form 24F-2*

Rule 24f-2 requires any open-end management company, unit investment trust, or face-amount certificate company deemed to have registered an indefinite amount of securities to file a Form 24F-2 not later than 90 days after the end of any fiscal year in which it has publicly offered such securities. Form 24F-2 is the annual notice of securities sold by these funds that accompanies the payment of registration fees with respect to the securities sold during the fiscal year, net of securities redeemed or repurchased during the year. We are amending rules 23c-3 and 24f-2 so that interval funds will pay registration fees on the same annual basis using Form 24F-2. We are also adopting a requirement that funds submit reports on Form 24F-2 in an XML structured data format.

TABLE 18: FORM 24F-2 PRA ESTIMATES

	Internal Burden		Wage Rate ¹	Cost of Internal Burden	Annual External Cost Burden
CURRENTLY APPROVED ESTIMATES²					
Clerical work to file Form 24F-2	2 hours	×	\$66 (compliance clerk)	\$132	\$0
Number of annual responses	×	7,284		×	7,284
Total annual burden	14,568 hours			\$961,488	\$0
PROPOSED ESTIMATES³					
Clerical work to file Form 24F-2	2 hours	×	\$67 (compliance clerk)	\$134	\$0
Submission in a structured data format	2 hours	×	\$261 (programmer)	\$522	\$0
Total annual burden per response	4 hours			\$656	\$0
Number of annual responses	×	6,177		×	6,177
Total annual burden	24,708 hours			\$4,052,112	\$0
FINAL ESTIMATES					
Clerical work to file Form 24F-2	2 hours	×	\$70 (compliance clerk) ⁴	\$140	\$0
Submission in a structured data format	2 hours	×	\$271 (programmer) ⁴	\$542	\$0
Total annual burden per response	4 hours			\$682	\$0
Number of annual responses	×	6,794 ⁴		×	6,794 ⁴
Total annual burden	27,176 hours			\$4,633,508	\$0

Notes:

1. See *supra* Table 6, at footnote 2.
2. This estimate was previously submitted to OMB in connection with the renewal of approval for the collection of information required by Form 24F-2 in 2018.
3. Proposing Release, *supra* footnote 10, at section IV.B.7.
4. Estimate revised to reflect updated data. Based on a review of Form 24F-2 filings for the period 2017-2019, the staff estimates that 6,741 filings will be made annually, and that 53 interval funds (representing the 3-year average of interval funds registered with the Commission) will file Form 24F-2 as a result of the final amendments (6,741 + 53 = 6,794).

Table 18 above summarizes the current PRA estimates, the proposed PRA estimates, and the final PRA estimates associated with the requirement to file reports on Form 24F-2.⁴⁸⁶ We did not receive public comment on our proposed estimates, but we have revised them as a result of updated industry data. Specifically, we are revising the estimated wage rates and estimated number of funds that will be subject to the requirements of Form 24F-2 to reflect updated industry data. As summarized in Table 18 above, the revised aggregate estimates for Form 24F-2, including the new amendments, are 27,176 hours, with no external costs.

7. *Amendments Permitting the Registration of Offerings of an Indeterminate Number of Exchange-Traded Vehicle Securities and the Payment of Registration Fees for Such Offerings on an Annual Net Basis*

The amendments to certain Securities Act rules and to Forms S-1, S-3, F-1 and F-3 will allow issuers of exchange-traded vehicle securities to elect to register offerings of an indeterminate number of such securities and pay registration fees for these offerings on an annual net basis. We estimate that the amendments will increase the paperwork burden for registration statements on Form S-1 and Form S-3 for such offerings due to the requirement to calculate and pay registration fees on an annual net basis within 90 days after the end of the fiscal year.⁴⁸⁷ However, because these issuers will have the ability to elect to register offerings of an indeterminate number of such securities, we also estimate that the amendments will result in a decrease in the number of registration

⁴⁸⁶ See Proposing Release, *supra* footnote 10, at section IV.B.7.

⁴⁸⁷ The paperwork burdens for 17 CFR 230.400 through 230.498A (Regulation C) are imposed through the forms, schedules and reports that are subject to the requirements in these regulations and are reflected in the analysis of those documents. To avoid a PRA inventory reflecting duplicative burdens and for administrative convenience, we assign a one-hour burden to Regulation C.

statements on these forms filed by these issuers and that, overall, the amendments will reduce the paperwork burdens associated with Form S-1 and Form S-3. The amendments to Forms F-1 and F-3 are not expected to affect the burdens associated with those forms, in that we do not anticipate that any issuers at this time will use Form F-1 or Form F-3 to register offerings of an indeterminate number of exchange-traded vehicle securities and pay registration fees for these offerings on an annual net basis.

Based on a review of registration statements filed by ETPs for the period 2017-2019, the staff estimates that, after the effectiveness of these amendments, an average of five registration statements on each of Form S-1 and Form S-3 will be filed each year for offerings of an indeterminate number of exchange-traded vehicle securities with the payment of registration fees on an annual net basis.⁴⁸⁸ We estimate that the incremental increase in burden for these registration statements will be two hours, consistent with the estimated burden for Form 24F-2. We would expect there to be only a minimal initial burden of establishing a system for calculating fee payments in this manner, in that these issuers already track the issuances and redemptions of their securities on an ongoing basis. When paying registration fees, these issuers will file prospectus supplements under rule 424 and provide disclosures modeled after Form 24F-2. We estimate that, in filing these prospectus supplements in connection with registration statements on Form S-1 or Form S-3, 25% of the burden of preparation is carried by the issuer internally and that

⁴⁸⁸ While we believe that the number of such registration statements to register an indeterminate number of exchange-traded vehicle securities will be higher immediately following the effectiveness of these amendments, we estimate that the number of registration statements for such offerings after this initial period will average a total of approximately 10 registration statements each year.

75% of the burden of preparation is carried by outside professionals retained by the issuer at an average cost of \$400 per hour.

TABLE 19. INCREMENTAL PAPERWORK BURDEN UNDER THE AMENDMENTS FOR REGISTRATION STATEMENTS

	Current Burden			Estimated Increase in Burden for Affected Responses					
	Annual Reponses	Burden Hours	Costs	Estimated Number of Affected Responses (A)	Burden Hour Change per Affected Response (B)	Change in Burden Hours for Affected Responses (C) = (A) x (B)	Change in Company Hours for Affected Responses (D) = (C) x 0.25	Change in Professional Hours for Affected Responses (E) = (C) x 0.75	Change in Professional Costs
S-1	901	147,208	\$180,319,975	5	2	10	2.5	7.5	\$3,000
S-3	1,657	193,626	\$236,198,036	5	2	10	2.5	7.5	\$3,000

In addition, we estimate that seven fewer Forms S-1 and ten fewer Forms S-3 will be filed by these issuers each year as a result of the ability to register offerings of an indeterminate number of exchange-traded vehicle securities, which could result in lower costs for these issuers through a reduction in the number of registration statements filed by these issuers.

TABLE 20. ESTIMATED DECREASE IN BURDEN AS A RESULT OF THE DECREASE IN THE NUMBER OF ANNUAL RESPONSES

	Current Burden			Estimated Decrease in Burden as a Result of the Decrease in the Number of Annual Responses		
	Annual Reponses	Burden Hours	Costs	Estimated Decrease in the Number of Annual Responses	Estimated Decrease in Burden Hours	Estimated Decrease in Costs
S-1	901	147,208	\$180,319,975	7	1,144	\$1,400,932
S-3	1,657	193,626	\$236,198,036	10	1,169	\$1,425,456

The following table illustrates the total annual compliance burden, in hours and in costs, of the affected collections of information resulting from the amendments to these forms.

TABLE 21. CURRENT AND REVISED BURDENS UNDER THE AMENDMENTS TO SECURITIES ACT REGISTRATION STATEMENTS

	Current Burden		Revised Burden	
	Burden Hours (A)	Costs (B)	Burden Hours (C)	Costs (D)
S-1	147,208	\$180,319,975	146,067	\$178,922,043
S-3	193,626	\$236,198,036	192,460	\$234,775,580
F-1	26,692	\$32,275,375	26,692	\$32,275,375
F-3	4,441	\$5,703,600	4,441	\$5,703,600

8. *Amendments to Form N-14*

Form N-14 is the form used by an affected fund for the registration of securities issued in business combination transactions. The amendments to Form N-14 will decrease the existing disclosure burden of the form by allowing BDCs to incorporate by reference to the same extent as is currently permitted for registered CEFs and eliminating the requirement for affected funds to file with the Form N-14 registration statement the documents that contain the information that is incorporated by reference into the prospectus or SAI.⁴⁸⁹

⁴⁸⁹ See *supra* section II.B.3.b.

TABLE 22: CURRENTLY APPROVED FORM N-14 PRA ESTIMATES¹

	Internal Burden		Wage Rate ²	Cost of Internal Burden	Annual External Cost Burden
BURDEN PER INITIAL FILING					
	310 hours	×	\$401 (attorney)	\$124,310	
Preparing and filing initial filing	248 hours	×	\$209 (senior accountant)	\$51,832	\$27,500
	62 hours	×	\$210 (paralegal)	\$13,020	
Total burden per initial filing	620 hours			\$189,162	\$27,500
Number of annual initial filings	×		156	×	156
Total annual burden	96,720 hours			\$29,509,272	\$4,290,000
BURDEN PER AMENDMENT					
	150 hours	×	\$401 (attorney)	\$60,150	
Preparing and filing amendments	120 hours	×	\$209 (senior accountant)	\$25,080	\$16,000
	30 hours	×	\$210 (paralegal)	\$6,300	
Total burden per amendment	300 hours			\$91,530	\$16,000
Number of annual amendments	×		97	×	97
Total annual burden	29,100 hours			\$8,878,410	\$1,552,000
TOTAL BURDEN					
Total initial filing burden	96,720 hours			\$29,509,272	\$4,290,000
Total amendment burden	29,100 hours			\$8,878,410	\$1,552,000
Total annual burden	125,820 hours			\$38,387,682	\$5,842,000

Notes:

1. These estimates were previously submitted to OMB in connection with the renewal of approval for the collection of information required by Form N-2 in 2019.
2. See *supra* Table 6, at footnote 2.

TABLE 23: FINAL FORM N-14 PRA ESTIMATES

	Internal Burden		Wage Rate ¹	Cost of Internal Burden	Annual External Cost Burden
BURDEN PER INITIAL FILING					
Current burden for preparing and filing initial filing	310 hours	×	\$415 (attorney) ²	\$128,650	
	248 hours	×	\$216 (senior accountant) ²	\$53,568	\$27,500
	62 hours	×	\$218 (paralegal) ²	\$13,516	
Burden reduction from incorporation by reference amendments	(10 hours) ³	×	\$218 (paralegal) ²	\$(2,180)	\$(0)
Total burden per initial filing	610 hours			\$193,554	\$27,500
Number of annual initial filings		×	156 ²	×	156 ²
Total annual burden	96,160 hours			\$29,181,672	\$4,290,000
BURDEN PER AMENDMENT					
Current burden for preparing and filing amendments	150 hours	×	\$415 (attorney) ²	\$62,250	
	120 hours	×	\$216 (senior accountant) ²	\$25,920	\$16,000
	30 hours	×	\$218 (paralegal) ²	\$6,540	
Burden reduction from incorporation by reference amendments	(10 hours) ³	×	\$218 (paralegal) ²	\$(2,180)	\$(0)
Total burden per amendment	290 hours			\$92,530	\$16,000
Number of annual amendments		×	97 ²	×	97 ²
Total annual burden	29,100 hours			\$8,674,710	\$1,552,000
TOTAL BURDEN					
Total initial filing burden	96,160 hours			\$29,181,672	\$4,290,000
Total amendment burden	29,100 hours			8,674,710	\$1,552,000
Total annual burden	125,260 hours			\$37,856,382	\$5,842,000

Notes:

1. See *supra* Table 6, at footnote 2.
2. Estimate revised to reflect updated industry data.
3. Estimate revised to reflect modifications from the proposal.

Table 22 above summarizes the current PRA estimates associated with the requirements of Form N-14. Table 23 summarizes the final PRA amendments associated with Form N-14 as amended. We are revising our estimates as a result of updated industry data and modifications from the proposal. Specifically, we are deducting 10 hours of internal burden per filing to reflect the burden reduction associated with the incorporation by reference amendments affecting filings on Form N-14. In addition, we are revising the estimated wage rates to reflect updated industry data. As summarized in Table 23 above, we estimate that the total hour burdens and time costs associated with Form N-14 will be an aggregate burden of 125,260 hours at an aggregate annual cost of internal burden of \$37,856,382. We estimate an aggregate annual external time cost of \$5,842,000.

V. FINAL REGULATORY FLEXIBILITY ANALYSIS

The Commission has prepared the following Final Regulatory Flexibility Analysis (“FRFA”) in accordance with section 4(a) of the Regulatory Flexibility Act (“RFA”),⁴⁹⁰ regarding the final rule modifications to the registration, communications, and offering processes for affected funds under the Securities Act and the rules and forms under the Exchange Act and Investment Company Act, that will allow affected funds to use the securities offering rules that are already available to operating companies. An Initial Regulatory Flexibility Analysis (“IRFA”) was prepared in accordance with the RFA and is included in the Proposing Release.⁴⁹¹

A. Need and Objectives of the Final Rule

The BDC Act directs us to allow a BDC to use the securities offering rules that are available to other issuers required to file reports under section 13(a) or section 15(d) of the

⁴⁹⁰ See 5 U.S.C. 603.

⁴⁹¹ See Proposing Release, *supra* footnote 10, at section VI.

Exchange Act and specifically enumerates the required revisions. Similarly, the Registered CEF Act directs us to allow any listed registered CEF or interval fund to use the securities offering rules that are available to other issuers that are required to file reports under section 13(a) or section 15(d) of the Exchange Act, subject to appropriate conditions.⁴⁹² Pursuant to both Acts, the final rule will modify the registration, communications, and offering processes for affected funds to allow them to use the securities offering rules that are available to other issuers required to file reports under section 13(a) or section 15(d) of the Exchange Act. We are also adopting amendments to our rules and forms, to tailor the disclosure and regulatory framework for affected funds, in light of the amendments to the offering rules applicable to them. The reasons for, and objectives of, the final rule are further discussed in more detail in Section II above. The costs and burdens of these requirements on smaller affected funds are discussed below as well as above in our Economic Analysis and Paperwork Reduction Act Analysis, which discusses the costs and burdens of the final rule on all affected funds.

B. Significant Issues Raised by Public Comments

In the Proposing Release, we requested comment on every aspect of the IRFA, including the number of small entities that would be affected by the proposed rule and form amendments, the existence or nature of the potential impact of the proposals on small entities discussed in the analysis, and how to quantify the impact of the proposed amendments. We also requested comment on the proposed compliance burdens and the effect these burdens would have on smaller entities. Although we did not receive comments specifically addressing the IRFA, several commenters stated in their comment letters the impact they believed certain aspects of

⁴⁹² As discussed above, we apply the final rule to all registered CEFs (and BDCs), with certain conditions and exceptions.

the proposed amendments would have on small affected funds.⁴⁹³ Specifically, one commenter stated that the proposed rules would disadvantage smaller affected funds relative to larger affected funds that have obtained WKSI status, because smaller funds that would benefit from the ability to use automatic effective registration statements to quickly come to market during periods when their shares trade at a premium, may miss the opportunity to raise capital that the proposed rules were designed to facilitate. The commenter stated that this disparity was unnecessary because shareholders of smaller funds would not likely be disadvantaged by a lower level of market commentary about those funds as compared to larger funds given the investor protections afforded to those shareholders by the Investment Company Act.⁴⁹⁴ Similarly, another commenter stated that the Commission should reconsider the public float requirement in order to encourage new CEF issuances and give smaller CEFs the opportunity to grow through the issuance of additional shares, because the offering size of most of the recent offerings by public CEFs have been relatively small, making them ineligible for treatment as a “seasoned fund” or WKSI.⁴⁹⁵ The second commenter stated that forward incorporation by reference, which is allowed when an affected fund has met the requirements to use a short-form registration statement, should be made available to smaller affected funds.⁴⁹⁶ However, as discussed below, commenters defined smaller funds as those funds that did not meet the WKSI public float threshold of \$700 million or more for purposes of using an automatic registration statement, or

⁴⁹³ See e.g., ABA Comment Letter; Invesco Comment Letter; White Comment Letter; XBRL US Comment Letter.

⁴⁹⁴ See e.g., ABA Comment Letter.

⁴⁹⁵ See e.g., Invesco Comment Letter.

⁴⁹⁶ See e.g., White Comment Letter.

did not meet the seasoned public float threshold of \$75 million or more for purposes of forward incorporation by reference.

Another commenter voiced support for the XBRL format proposed for certain filings by affected funds and recommended expanded use of the format for other disclosures.⁴⁹⁷ The commenter noted that a study it conducted along with the AICPA in 2014 and again in 2017 evaluating the annual cost of XBRL preparation for small reporting companies had decreased from \$10,000 in 2014 to \$5,500 in 2017.⁴⁹⁸ In citing to the Council of Institutional Investors (CII) July 19, 2018 comment letter in response to the SEC Draft Strategic Plan 2018-2022, the commenter stated that inline XBRL is an improvement to EDGAR functionality and makes disclosure documents more valuable and cost-effective for a broad range of users including market analysts and data vendors that conduct research on smaller companies.⁴⁹⁹ In response to the Commission's request for comment regarding whether the current burdens of preparing financial statements and notes in XBRL format have changed over time for small reporting companies, the commenter reiterated that the cost of XBRL preparation has declined 45% for small reporting companies.⁵⁰⁰

After considering the comments we received on the proposed rule and form amendments, we are adopting the amendments, substantially as proposed, with two modifications intended to reduce the operational challenges commenters identified. Specifically, we are expanding the scope of rule 486 to any registered CEF or BDC conducting continuous offerings under rule

⁴⁹⁷ See e.g., XBRL US Comment Letter.

⁴⁹⁸ *Id.* at 13.

⁴⁹⁹ *Id.* at 10.

⁵⁰⁰ *Id.* at 13.

415(a)(1)(ix), and we are not adopting our proposed amendments to Form 8-K.⁵⁰¹ However, we do not believe there would be any meaningful reporting, recordkeeping, or other compliance costs associated with these modifications that would impact small entities.

C. Small Entities Subject to the Rule

An investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of \$50 million or less as of the end of its most recent fiscal year.⁵⁰² Commission staff estimates that, as of June 2019, 16 BDCs and 33 registered CEFs are small entities.⁵⁰³

A broker-dealer is a small entity if it has total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to 17 CFR 240.17a-5(d) (Exchange Act rule 17a-

⁵⁰¹ See *supra* sections II.D and II.I.3.

⁵⁰² 17 CFR 270.0-10(a) (Investment Company Act rule 0-10(a)).

⁵⁰³ These estimates, reflecting the net assets of registered CEFs and of BDCs, are based on staff review of Forms N-CEN and N-Q filed with the Commission as of June 2019 and are based on the definition of small entity under Investment Company Act rule 0-10. Such funds will not necessarily be able to meet the transaction requirement to qualify to file a short-form registration statement on Form N-2 (*i.e.*, generally those affected funds with a public float of \$75 million) or to be a WKSI (*i.e.*, generally those affected funds with a public float of \$700 million). See *supra* section II.B.3 and II.C.

Based on data as of June 2019 from Morningstar Direct, Forms 10-K and 10-Q that are filed with the Commission by BDCs, and closed-end fund data reported on Forms N-CSR, N-Q, and N-PORT filed with the Commission, we estimate, of the 16 BDCs that are small entities, 3 were traded on an exchange with market capitalization below the \$75 million public float threshold for qualifying to file a short-form registration statement on Form N-2, and 5 small BDCs traded on the over-the-counter (OTC) market with market capitalization below this same \$75 million threshold. Likewise, of the 33 registered CEFs that qualified as small entities, 4 traded on an exchange with market capitalizations below this same \$75 million threshold; while 3 were traded on the OTC market with market capitalizations below \$75 million.

5),⁵⁰⁴ and it is not affiliated with any person (other than a natural person) that is not a small business or small organization.⁵⁰⁵ Commission staff estimates that, as of June 30, 2019, there are approximately 942 broker-dealers that may be considered small entities.⁵⁰⁶ To the extent a small broker-dealer participates in a securities offering or prepares research reports, it may be affected by the final rule. Generally, we believe larger broker-dealers engage in these activities, and we did not receive comments on whether or how the proposed amendments to rule 138 affect small broker-dealers.⁵⁰⁷

The final rule will also affect ETPs, permitting them to register offerings of an indeterminate number of exchange-traded vehicle securities and pay registration fees for such offerings on an annual net basis. For purposes of the RFA, 17 CFR 230.157 (Securities Act rule 157) defines an issuer, other than an investment company, to be a “small business” or “small organization” if it had total assets of \$5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities not exceeding \$5 million.⁵⁰⁸ Exchange Act rule 0-10(a) defines an issuer, other than an investment company, to be a “small business” or “small organization” if it had total assets of \$5 million or less on the last day of its most recent fiscal year. Commission staff estimates that, as of February 2020, there are

⁵⁰⁴ See 17 CFR 240.0-10(c)(1) (Exchange Act rule 0-10(c)(1)). Alternatively, if a broker-dealer is “not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter).” *See id.*

⁵⁰⁵ See Exchange Act rule 0-10(c)(2).

⁵⁰⁶ This estimate is derived from an analysis of data for the period ending June 30, 2019 obtained from Financial and Operational Combined Uniform Single (FOCUS) Reports that broker-dealers generally are required to file with the Commission and/or SROs pursuant to Exchange Act rule 17a-5.

⁵⁰⁷ See *supra* section II.F.2.

⁵⁰⁸ See 17 CFR 230.157.

approximately 7 ETPs that are issuers, other than an investment company, that may be considered small entities.⁵⁰⁹

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The final rule will create, amend, or eliminate current requirements for affected funds and broker-dealers, including those that are small entities discussed in section V.C above.⁵¹⁰

1. Registration Process and Final Prospectus Delivery

The amendments to the registration process for affected funds will create a short-form registration statement on Form N-2 that will function like a registration statement filed on Form S-3.⁵¹¹ An affected fund eligible to file the short-form registration statement can use it to register shelf offerings, including shelf registration statements (filed by a WKSI) that become effective automatically.⁵¹² Such a fund also can satisfy Form N-2's disclosure requirement by incorporating by reference information from the fund's Exchange Act reports.⁵¹³

In addition, the final rule will allow certain affected funds eligible to register a primary offering under the adopted short-form registration instruction to rely on rule 430B to omit

⁵⁰⁹ Based on data as of February 2020 from Morningstar Direct and Form S-1 and Form S-3 registration statements filed with the Commission within the past three years. As discussed above, we do not anticipate that any issuers at this time will use Form F-1 to register offerings of an indeterminate number of exchange-traded vehicle securities and pay registration fees for these offerings on an annual net basis. *See supra* section IV.B.7. Consequently, our figures do not reflect F-1 filers as a "small business" or "small organization."

⁵¹⁰ *See also supra* section IV (discussing the skills necessary to perform the recordkeeping, reporting, and compliance requirements of the final rule, including those to be performed internally by a fund, and those to be performed externally by professionals). The PRA provides for the hours, costs, and skill level associated with preparing disclosures, filing forms, and retaining records in compliance with our adopted rules. These skills would apply for compliance with the adopted rules by all funds, large and small, and Commission staff further estimates that small funds will incur approximately the same initial and ongoing costs as large funds.

⁵¹¹ *See supra* section II.B.3.

⁵¹² *Id.*

⁵¹³ *Id.*

information from their base prospectuses, and to permit affected funds to use the process operating companies follow to file prospectus supplements.⁵¹⁴ Affected funds that choose to forward incorporate information by reference into their registration statements will also be able to include additional information in their periodic reports that is not required to be included in these reports in order to update their registration statements.⁵¹⁵

The amendments to the WKSI definition in rule 405 will also permit affected funds to qualify for enhanced offering and communication benefits under our rules.⁵¹⁶ In order for an issuer to qualify as a WKSI, the issuer must meet the registrant requirements of Form S-3, *i.e.*, it must be “seasoned,” and generally must have at least \$700 million in public float.⁵¹⁷ Qualifying as a WKSI will allow such funds to file a registration statement or amendment that becomes effective automatically in a broader variety of contexts than non-WKSIs, and to communicate at any time, including through a free writing prospectus, without violating the “gun-jumping” provisions of the Securities Act.⁵¹⁸

Smaller affected funds will not be able to avail themselves of the aspects of the adopted rule amendments streamlining the registration process for affected funds or that make available the WKSI designation to affected funds. The adopted short-form registration instruction is designed to provide affected funds parity with operating companies by permitting them to use the instruction to register the same transactions that an operating company can register on Form S-

⁵¹⁴ See *supra* section II.B.3.d.

⁵¹⁵ See *supra* section II.B.3.e.

⁵¹⁶ See *supra* section II.C.

⁵¹⁷ *Id.*

⁵¹⁸ *Id.*

3.⁵¹⁹ In order to qualify to use the short-form registration statement under Form N-2, General Instruction A.2 of Form N-2 generally requires an affected fund to meet the public float requirement of \$75 million under the transaction requirements for Form S-3.⁵²⁰ Likewise, the WKSI provision of rule 405 contains a public float requirement of \$700 million, as discussed above. Smaller funds will not generally meet the public float thresholds to file a short-form registration statement or qualify as a WKSI and therefore will not generally be subject to either of these amendments.⁵²¹ However, smaller affected funds may be affected by these amendments in other ways. For example, smaller affected funds may be more likely to merge to obtain WKSI status, and could experience competitive disadvantages compared to larger funds that qualify as WSIs or that file short-form registration statements on Form N-2.⁵²²

The final rule will also apply the delivery method for operating company final prospectuses to offerings of affected funds. As a result, an affected fund, broker, or dealer will be allowed to satisfy the final prospectus delivery obligations if a final prospectus is or will be on file with the Commission within the time required by the rules and other conditions are satisfied.⁵²³ These requirements will apply to all affected funds, as well as all brokers or dealers.⁵²⁴

⁵¹⁹ See *supra* section II.B.3.a; see also *supra* footnote 51 and accompanying and preceding text.

⁵²⁰ See *supra* sections II.B.3.a and III.B.1.

⁵²¹ See *supra* sections II.B.3 and III.B.1.

⁵²² See *supra* section III.B.1.

⁵²³ See *supra* sections IV.B.5 and II.E.

⁵²⁴ Affected funds using the new approach to prospectus delivery will be required to provide a notice to purchasers stating that a sale of securities was made pursuant to a registration statement or in a transaction in which a final prospectus would have been required to have been delivered in the absence of Securities Act rule 172. See *supra* footnote 153 and accompanying text.

2. *Communications Rules*

For offerings of smaller affected funds, we are not adopting any new restrictions on communications. As discussed above, the amendments to Securities Act rules 134, 138, 156, 163, 163A, 164, 168, 169, and 433 will make available the use of certain types of communications that were previously not available to affected funds.⁵²⁵ Except as otherwise discussed below, we believe that there are no significant reporting, recordkeeping, or other compliance requirements associated with these amendments. As such, except as otherwise discussed below, we believe that there are no attendant costs and administrative burdens for small affected funds associated with these amendments.

In addition, the communications rules themselves do not create any new restrictions for smaller affected funds. Instead, smaller affected funds now may be able to take advantage of new communications options not previously afforded to them.⁵²⁶ We also note that rule 163, and the new amendments, apply only to WKSIs. Consequently, these amendments to rule 163 will not produce any benefit, or create any burden, for small affected funds because they would not qualify as WKSIs, as discussed above.⁵²⁷

To the extent that an affected fund uses a free writing prospectus under the adopted rules, any affected fund—large or small—will incur the burden of the requirement to file a free writing

⁵²⁵ See *supra* sections II.F, III.B.2, III.C.1, and IV.B.4. The amendments to Securities Act rules 163 and 433, regarding the use of a free writing prospectus, create new recordkeeping, filing, and compliance requirements that are addressed further below.

⁵²⁶ See *supra* sections II.F, III.B.2, III.C.1, and IV.B.4. These include, for example, amendments to rule 163A of the Securities Act, which provides a bright-line rule permitting communications more than 30 days before filing a registration statement, and amendments to rule 169 of the Securities Act, which provides affected funds the ability to engage in regular factual business communications.

⁵²⁷ See *supra* section V.D.1.

prospectus, or retain a record of the free writing prospectus for three years if it was not filed with the Commission.⁵²⁸ However, we believe that the burden here will be negligible. Affected funds currently use rule 482 of the Securities Act to engage in communications similar to those that will be permitted under the amendments to rule 433, and these funds are required to file their rule 482 communication with either the Commission or, alternatively, with the Financial Industry Regulatory Authority (“FINRA”).⁵²⁹ The burden associated with the filing requirements that the amendments to rule 433 will entail will therefore not be meaningfully different than the burden associated with the filing requirement for rule 482 communications. Rule 433 also creates a recordkeeping requirement. We do not believe that this requirement will create any significant burden given that records of rule 482 communications must also be retained for a period that will generally exceed that required under rule 433.⁵³⁰ In addition, the recordkeeping requirement will apply only to affected funds (both large and small) that elect to use rule 433, as adopted.

⁵²⁸ See amended rule 433(d) and (g). Paragraph (d) of the rule provides for the various conditions and exclusions applicable to the general requirement of 433(d)(1) that an issuer or offering participant file its free writing prospectus. Paragraph (g) requires that if a free writing prospectus is not filed pursuant to paragraph (d) or (f) of rule 433, issuers and offering participants must retain all free writing prospectuses that have been used, for three years following the initial bona fide offering of the securities in question.

⁵²⁹ See note to paragraph (h) of Securities Act rule 482. Rule 482 requires that advertisements used in reliance on rule 482 are required to be filed in accordance with the requirements of rule 497, unless they are filed with FINRA. See *supra* footnote 528 and sections III.C and IV.B.4.; see also Securities Act rule 497(a) and (i).

⁵³⁰ See 17 CFR 270.31a-2(a)(3) (Investment Company Act rule 31a-2(a)(3)) (requiring every registered investment company to preserve for no less than six years from the end of the fiscal year last used, any advertisement, pamphlet, circular form letter, or other sales literature addressed to or intended for distribution to prospective investors). Securities Act rule 433(g) requires an issuer and offering participants to retain all free writing prospectuses that have been used, and that have not been filed pursuant to paragraphs (d) or (f) of the rule, for three years following the initial bona fide offering of the securities in question. However, for a broker or dealer utilizing a free writing prospectus, rule 433 defers to the recordkeeping requirements under 17 CFR 240.17a-4 (Exchange Act rule 17a-4) (requiring sales literature to be retained for not less than three years).

The final rule also will affect broker-dealers participating in a registered offering. Specifically, the amended rules will affect: (1) broker-dealers' publication and distribution of research reports on affected funds; and (2) broker-dealers' use of free writing prospectuses on affected funds.

The amendments to rule 138 will affect both large and small broker-dealers. These amendments will now permit broker-dealers to publish or distribute research reports with respect to a broader class of issuers and securities without this publication or distribution being an offer that otherwise could be a non-conforming prospectus in violation of section 5 of the Securities Act.⁵³¹ Broker-dealers that once used rule 482 ads styled as research reports, and instead rely on rule 138, as adopted, to publish or distribute similar communications, will no longer be subject to any filing requirement for these communications. Consequently, we expect that the amendments to rule 138 will result in fewer rule 482 communications being filed with FINRA.⁵³² This in turn will reduce filing-related administrative costs for broker-dealers publishing or distributing research reports on affected funds under the amendments to rule 138. However, large and smaller broker-dealers will not be affected differently by the amendments to rule 138.

In addition, the free writing prospectus rule amendments will permit broker-dealers to engage in these communications on behalf of the affected fund issuer.⁵³³ This will require broker-dealers, both large and small, to file the free writing prospectuses that they use with the

⁵³¹ See amended Securities Act rule 138.

⁵³² See *supra* footnote 529 and FINRA rule 2210(c)(7)(F) (requiring a broker-dealer to file with FINRA an investment company prospectus published pursuant to Securities Act rule 482).

⁵³³ See amended rule 433(b). Paragraph (b)(1) states that for WKSIs and seasoned issuers, both an issuer or offering participant may use a free writing prospectus, while paragraph (b)(2) states that for non-reporting and unseasoned issuers, any person participating in the offer or sale of the issuer's securities may use a free writing prospectus. Although the term "offering participant" is not defined, paragraph (h)(3) of rule 433 gives some context to this term.

Commission, or maintain records of any free writing prospectuses used if it was not filed with the Commission.⁵³⁴ However, certain of these broker-dealers are already required to file communications made under rule 482.⁵³⁵ Broker-dealers that once used rule 482 ads and instead now choose to rely on adopted amended rule 433 to publish or distribute similar communications, will no longer be required to file these communications with FINRA. Consequently, the amendments to rule 433 could result in fewer rule 482 communications being filed with FINRA and a potential increase in filings of free writing prospectuses by affected funds with the Commission.⁵³⁶ However, those broker-dealers that have not previously used rule 482 to publish or distribute the types of communications that the amendments to rule 433 permit, will newly be subject to both the filing and recordkeeping requirements of rule 433.

3. *New Registration Fee Payment Method for Interval Funds*

Interval funds, like other affected funds, are not currently permitted to pay registration fees on this same annual “net” basis as mutual funds and ETFs, and pay the registration fee at the time of filing the registration statement.⁵³⁷ As discussed above, we believe that interval funds will benefit from the ability to pay their registration fees in the same manner as mutual funds and ETFs, and that this approach is appropriate in light of interval funds’ operations.⁵³⁸ In addition,

⁵³⁴ *See supra* footnote 528.

⁵³⁵ *See supra* footnote 529.

⁵³⁶ *See supra* section III.C.1 and IV.B.4 (noting that we are unable to predict whether affected funds will engage in more communications with investors as a result of the final rule). To the extent affected funds or broker-dealers will use a free writing prospectus for communications that currently occur under rule 482, we would expect an increase in such filings of free writing prospectuses as well as an increase in the number of rule 138 research reports, and a decrease in the number of rule 482 ads filed with FINRA. *See supra* footnote 532 and accompanying text.

⁵³⁷ *See supra* section II.H and III.E.1.

⁵³⁸ *See supra* section II.H.

in response to comments to the Proposing Release, we also are adopting amendments to enable ETPs to register an indeterminate number of securities and to pay registration fees in arrears on an annual net basis.⁵³⁹ As we discussed above, ETPs operate in a manner substantially similar to that of ETFs, and as commenters noted, share similar attributes with interval funds, which we highlighted in extending to interval funds the ability to pay registration fees on an annual net basis, including routine repurchases of shares at NAV and avoiding the possibility of inadvertently selling more shares than it had registered.⁵⁴⁰ As a result, the final rule will require interval funds and allow ETPs to pay securities registration fees using the same method that mutual funds and ETFs use.⁵⁴¹ We believe this will benefit small interval funds and ETPs as well as larger interval funds and ETPs equally, and will make the registration fee payment process for all interval funds and ETPs more efficient as discussed above.⁵⁴²

4. *Disclosure and Reporting Requirements*

We also are adopting amendments, substantially as proposed, to our rules and forms that are intended to tailor the disclosure and regulatory framework for affected funds in light of our amendments to the offering rules applicable to them.⁵⁴³ These amendments include: structured data requirements; new periodic requirements; amendments to provide affected funds additional flexibility to incorporate information by reference; and enhancements to the disclosures that

⁵³⁹ *Id.*

⁵⁴⁰ *Id.*

⁵⁴¹ *Id.*

⁵⁴² *Id.*; *see also* section III.E.1.

⁵⁴³ *See supra* section II.I. Some of the amendments reflect our consideration of the availability of information to investors, as required by the Registered CEF Act. *See* section 509(a) of the Registered CEF Act.

registered CEFs make to investors when the funds are not updating their registration statements.⁵⁴⁴

Structured Data Requirements

The amendments will require BDCs, like operating companies, to submit financial statement information using Inline XBRL format; to require that affected funds include structured cover page information in their registration statements on Form N-2 using Inline XBRL format; to require that certain information required in an affected fund's prospectus be tagged using Inline XBRL format;⁵⁴⁵ and to require that filings on Form 24F-2 be submitted in XML format.⁵⁴⁶ Large and small affected funds will both incur on a proportional basis, the costs associated with these adopted structured data requirements. Furthermore, as noted above, based on our experience implementing the XBRL format, we recognize that some registrants affected by the adopted requirement, particularly filers with no Inline XBRL experience, likely will incur initial costs to acquire the necessary expertise and/or software as well as ongoing costs of tagging required information in Inline XBRL, and the incremental effect of any fixed costs, including ongoing fixed costs, of complying with the Inline XBRL requirement may be greater for smaller filers.⁵⁴⁷ However, we believe that smaller affected funds in particular may benefit

⁵⁴⁴ See *supra* sections II.I.1–II.I.5.

⁵⁴⁵ See *supra* footnote 241 and accompanying text noting that a seasoned fund filing a short-form registration statement on Form N-2 also will be required to tag information appearing in Exchange Act reports, such as those on Forms N-CSR, 10-K, or 8-K, if that information is required to be tagged in the fund's prospectus.

⁵⁴⁶ See *supra* sections II.I.1 and III.E.1.

⁵⁴⁷ See *supra* section III.E.2. *But see supra* footnote 428 (noting that since 2014, costs incurred utilizing XBRL have significantly reduced for smaller companies).

more from enhanced exposure to investors that could result from these adopted requirements.⁵⁴⁸

If reporting the disclosures in a structured format increases the availability of, or reduces the cost of collecting and analyzing, key information about affected funds, smaller affected funds may benefit from improved coverage by third-party information providers and data aggregators.

Periodic Reporting Requirements

The final rule also will require registered CEFs to provide the MDFP in their annual reports to shareholders, BDCs to provide financial highlights in their registration statements and annual reports, and affected funds filing a short-form registration statement on Form N-2 to disclose material unresolved staff comments.⁵⁴⁹ These requirements are intended to modernize and harmonize our periodic reporting disclosure requirements for affected funds with those applicable to operating companies and mutual funds and ETFs.

The final rule requirement for registered CEFs to include an MDFP section in the annual report and for BDCs to provide financial highlights in their registration statement and annual reports will apply to all applicable affected funds, large and small. We do not believe it would be appropriate to treat large and small entities differently for purposes of the MDFP requirement because such disclosures helps investors assess fund performance over the prior year and complements other information in the report, which may make the annual report disclosure more

⁵⁴⁸ *Id.*

⁵⁴⁹ *See supra* sections II.I.2.b, II.I.2.c, and II.I.2.d.

understandable as a whole.⁵⁵⁰ Such investor protection benefits are equally significant to investors in smaller affected funds as well as larger affected funds.⁵⁵¹

For similar reasons, we believe that the informational benefit of BDCs' inclusion of the financial highlights in their registration statements should apply equally to investors in large and small BDCs. We also believe the costs associated with this adopted requirement should be minimal for both large and small BDCs, since we understand that it is general market practice for BDCs to include this information in their registration statements.⁵⁵²

Finally, the final rule will require affected funds that file a short-form registration statement on Form N-2 to disclose material unresolved staff comments. Such a requirement will apply only to those entities that qualify for the short-form registration statement, which generally would not include smaller affected funds.⁵⁵³

Online Availability of Information Incorporated by Reference

The final rule will modernize Form N-2's requirements for backward incorporation by reference by all affected funds. Affected funds will no longer be required to deliver to new investors information that they have incorporated by reference.⁵⁵⁴ Instead, we are adopting new requirements that these funds make the incorporated materials and corresponding prospectus and SAI readily available and accessible on a website maintained by or for the fund and identified in

⁵⁵⁰ See *supra* section III.E.3.

⁵⁵¹ See *supra* section II.I.2.b and II.I.2.c; see also *supra* section IV.B.3 (discussing the burden hours associated with complying with the adopted disclosure requirements for both small and large affected funds).

⁵⁵² *Id.*; see also *supra* sections IV.B.1 and IV.B.3.

⁵⁵³ See *supra* footnote 503.

⁵⁵⁴ See *supra* sections II.I.4 and IV.E.5.

the fund's prospectus or SAI.⁵⁵⁵ We do not believe this requirement will generate significant compliance costs for affected funds because many funds currently post their annual and semi-annual reports and other fund information on their websites.⁵⁵⁶ Nor do we think it would be appropriate to treat large and small entities differently for these purposes. The adopted requirement will make the incorporated information, prospectus, and SAI more accessible to retail investors, who we believe may be more inclined to look at a fund's website for information than to search the EDGAR system.⁵⁵⁷ The final rule also will increase the likelihood that fund investors view the information in their preferred format, and thereby increase their use of the information to make investment decisions.⁵⁵⁸ We believe that these investor protection benefits should be available equally for investors in smaller and larger affected funds.

Enhancements to Certain Registered CEFs' Annual Report Disclosure

Finally, the amendments to rule 8b-16(b) under the Investment Company Act will require a fund relying on that rule to describe in its annual report the fund's current investment objectives, policies, and principal risks.⁵⁵⁹ The amendments also will require a fund to describe in its annual report certain key changes that occurred during the relevant year in enough detail to allow investors to understand each change and how it may affect the fund, and to preface such disclosures with a legend.⁵⁶⁰ The amendments to rule 8b-16(b) will only affect that portion of

⁵⁵⁵ *Id.*

⁵⁵⁶ *See supra* section III.E.4.

⁵⁵⁷ *Id.*

⁵⁵⁸ *Id.*

⁵⁵⁹ *See supra* sections II.I.5 and III.E.3.

⁵⁶⁰ *Id.*

registered CEFs that rely on the rule.⁵⁶¹ We do not think it would be appropriate to treat large and small entities differently for purposes of the amendments to rule 8b-16(b), as this new requirement will allow investors in funds relying on the rule to more easily identify and understand key information about their investments.⁵⁶² We believe that this investor protection benefit should be available equally for investors in smaller and larger affected funds. In addition, the adopted new requirement will likely add only a small incremental compliance burden because funds relying on rule 8b-16(b) are already required to disclose the enumerated changes.⁵⁶³ The amendments described in section II.I above will apply to affected funds that are small entities as well as other affected funds unless noted otherwise.⁵⁶⁴

5. *Automatic or Immediate Effectiveness for Filings by Affected Funds Conducting Certain Continuous Offerings*

As we discussed above, the amendments we are adopting to rule 486 will permit any registered CEF or BDC that conducts continuous offerings under rule 415(a)(1)(ix), including unlisted continuously-offered affected funds such as tender offer funds, to rely on rule 486.⁵⁶⁵ Our amendment to rule 486 will allow such funds to file post-effective amendments and registration statements that become effective immediately upon filing or automatically effective

⁵⁶¹ See *supra* section III.E.3. Based on staff review of data derived from Morningstar Direct and Commission filings for the period ending June 30, 2019, approximately 521 registered CEFs currently rely on rule 8b-16(b). Of these, we estimate that 22 will be small issuers based on net assets of \$50 million or less.

⁵⁶² See *supra* section III.E.3.

⁵⁶³ *Id.*

⁵⁶⁴ See also *supra* sections III.E.3 and IV.B.3 (discussing the economic impact, and the estimated compliance costs and burdens, of the final rule described in section II.I).

⁵⁶⁵ See *supra* section II.D.

60 days after filing, depending on the substance of the disclosure changes.⁵⁶⁶ In doing so, we believe that such funds will be able to more efficiently update their financial statements under section 10(a)(3) of the Securities Act to maintain effective registration statements while they engage in continuous offerings.⁵⁶⁷

These amendments will benefit both large and small continuously-offered unlisted affected funds, and we believe that they provide benefits similar to the benefits the adopted rule offers affected funds that will file short-form registration statements or qualify as WKSIs.⁵⁶⁸ Because the amended rule applies only to those affected funds that conduct continuous offerings under rule 415(a)(1)(ix), we expect this subset of affected funds to be limited.⁵⁶⁹ In addition, although reliance on rule 486 is voluntary for continuously-offered affected funds who are newly permitted to rely on the rule, we expect many will rely on it due to the cost efficiencies sustained from a regime providing immediate or automatic effectiveness for post-effective amendments and certain registration statements. Notwithstanding this increased use, and because it will provide greater efficiencies, we do not believe the final rule will create any new meaningful reporting, recordkeeping, or other compliance costs in relation to how affected funds currently file post-effective amendments or registration statements. In addition, immediate or automatic effectiveness would permit smaller funds the ability to engage in offerings that meet investor demand, on a timely basis, for such offerings.

⁵⁶⁶ *Id.*

⁵⁶⁷ *Id.*; see also *supra* section III.E.5.

⁵⁶⁸ See *supra* section III.E.5.

⁵⁶⁹ Based on staff review of fund filings, as of August 2019, we estimate that approximately 65 continuously-offered unlisted affected funds (that are not interval funds) conduct continuous offerings under rule 415(a)(1)(ix), of which 14 are BDCs, and 51 are registered CEFs.

E. Agency Action to Minimize Effect on Small Entities

The RFA directs the Commission to consider significant alternatives that would accomplish our stated objective, while minimizing any significant economic impact on small entities. Although the BDC Act and Registered CEF Act required certain amendments to our rules and forms, we could have, for example, made additional modifications to the relevant provisions with respect to affected funds that are small entities. Alternatively, we also could have limited the scope to BDCs (as the BDC Act specified) and to interval funds and listed registered CEFs (as the Registered CEF Act specified), which would have excluded from the scope of the adopted rules certain small entities that are registered CEFs but that are not interval funds or listed registered CEFs.⁵⁷⁰ Where our final rules reflect an exercise of discretion, we considered the following alternatives for small entities in relation to our amendments:

- Exempting affected funds that are small entities from the adopted disclosure, reporting, or recordkeeping requirements, to account for resources available to small entities;
- Establishing different compliance or reporting requirements or frequency to account for resources available to small entities;
- Clarifying, consolidating, or simplifying the compliance requirements under the amendments for small entities; and
- Using performance rather than design standards.

1. *Alternatives to the Adopted Approach to Implementing Statutory Mandates*

In accordance with the BDC Act and Registered CEF Act, the final rule modifies the restrictions regarding offerings and communications permitted around the time of a Securities

⁵⁷⁰ See *supra* section II.A.

Act registered offering. The flexibility provided by our amendments will be greatest for larger and seasoned affected funds, but will also provide greater flexibility to all affected funds and broker-dealers, including small entities.

We considered modifying the public float standards in the WKSI definition or the short-form registration instruction by reducing the required level of public float or providing alternative eligibility criteria, such as an aggregate NAV of a certain size for funds whose shares are not traded on an exchange or through the use of “performance” rather than “design” standards.⁵⁷¹ These alternatives would have allowed more affected funds, potentially including small entities, to qualify as WKSIs or file short-form registration statements. However, we believe that modifying the eligibility criteria in the WKSI definition or the short-form registration instruction could weaken the investor protection benefits provided by those criteria.

We also considered extending the adopted rule amendments only to BDCs, listed registered CEFs, and interval funds.⁵⁷² However, excluding unlisted registered CEFs from the adopted rule amendments will create unnecessary competitive disparities between unlisted registered CEFs (which will potentially include smaller funds) and unlisted BDCs and will not provide investors in unlisted registered CEFs with the benefits of the new investor protections we are adopting.⁵⁷³

2. *Alternative Approaches to Discretionary Choices*

New Registration Fee Payment Method for Interval Funds

⁵⁷¹ See *supra* section II.C.

⁵⁷² See *supra* section III.D.

⁵⁷³ *Id.*

We considered, but are not adopting, provisions allowing a wider range of affected funds, such as registered CEFs that are tender offer funds, to rely on rule 24f-2.⁵⁷⁴ To the extent that this alternative would have brought in additional small affected funds, it could have extended the benefits of this fee payment method to additional small entities. However, we did not adopt this alternative approach because interval funds and ETPs have structural similarities to mutual funds and ETFs that other affected funds do not.⁵⁷⁵

Structured Data Requirements

As an alternative, we could have adopted amendments requiring the Inline XBRL requirements only for a subset of affected funds—for example, affected funds that file short-form registration statements on Form N-2 or WKSIs.⁵⁷⁶ This would have lessened the burden associated with the structured data requirements on smaller affected funds. However, a structured data program that captures only a subset of affected funds would reduce potential data quality benefits compared to mandatory Inline XBRL requirements for all affected funds.⁵⁷⁷ This in turn would reduce data users' ability to meaningfully analyze, aggregate, and compare data.

However, we are adopting an extended compliance period for the new XBRL reporting requirements we adopted for affected funds that are not eligible to file a short-form registration statement. This extended compliance period—which will apply to affected funds that do not meet the transaction requirement to qualify to file a short-form registration statement on Form N-2 (*i.e.*, generally those affected funds with a public float of \$75 million), and which encompasses

⁵⁷⁴ See *supra* section III.E.1.

⁵⁷⁵ See *id.*

⁵⁷⁶ See *supra* section IV.B.2.

⁵⁷⁷ See *id.*

the small entities subject to the adopted rule amendments discussed above—should enable small entities to defer the burden of additional cost associated with the adopted XBRL requirements and learn from affected funds that comply earlier.

Periodic Reporting Requirements and Online Availability of Information Incorporated by Reference

We also considered a partial or complete exemption from the adopted periodic reporting requirements, and for the adopted requirements to make information incorporated by reference available on a website, for small entities.⁵⁷⁸ With respect to the periodic reporting requirements, small entities that are not affected funds currently follow the same requirements that large entities do when filing periodic reports, and we believe that establishing different reporting requirements or frequency for small entities that are affected funds would not be consistent with the Commission’s goal of investor protection and industry oversight. For example, we could have adopted amendments to require smaller affected funds to include in their annual reports less information from their registration statements. While requiring less information would reduce costs to smaller affected funds by reducing the amount of required annual report disclosure, it could also make it more difficult for investors in these funds to find important fund information. Similarly, we believe that the investor protection benefits associated with the other adopted periodic reporting requirements that apply to large and small affected funds—for example, the MDFP requirement for registered CEFs and the inclusion of BDCs’ financial highlights in their registration statement—should apply equally to investors in large and small affected funds.⁵⁷⁹ We also believe that the investor protection benefits stemming from the adopted requirement to

⁵⁷⁸ See *supra* section III.E.3.

⁵⁷⁹ See *supra* section V.D.4.

make materials incorporated by reference available on a website should be available equally for investors in smaller and larger affected funds, and therefore this adopted rule applies equally to large and small affected funds.⁵⁸⁰

VI. OTHER MATTERS

Pursuant to the Congressional Review Act,⁵⁸¹ the Office of Information and Regulatory Affairs has designated this rule a “major rule,” as defined by 5 U.S.C. 804(2). If any of the provisions of these rules, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

VII. STATUTORY AUTHORITY

The amendments contained in this release are being adopted under the authority set forth in the Securities Act, particularly sections 6, 7, 8, 10, 19, and 28 thereof [15 U.S.C. 77a *et seq.*]; the Exchange Act, particularly sections 3, 4, 10, 12, 13, 14, 15, 17, 23, 35A, and 36 thereof [15 U.S.C. 78a *et seq.*]; the Investment Company Act, particularly sections 6, 8, 20, 23, 24, 30, 31, and 38 thereof [15 U.S.C. 80a *et seq.*]; the BDC Act, particularly section 803(b) thereof [Pub. L. 115–141, div. S, title VIII, 132 Stat. 348 (2018)]; and the Registered CEF Act, particularly section 509(a) thereof [Pub. L. 115–174, title V, 132 Stat. 1296 (2018)].

List of Subjects

17 CFR Part 229

Reporting and recordkeeping requirements, Securities.

⁵⁸⁰ *See id.*

⁵⁸¹ 5 U.S.C. 801 *et seq.*

17 CFR Part 230

Advertising, Confidential business information, Investment Companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 232

Administrative practice and procedure, Confidential business information, Reporting and recordkeeping requirements, Securities.

17 CFR PART 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

17 CFR Part 243

Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Brokers, Reporting and recordkeeping requirements, Securities

17 CFR Part 270

Confidential business information, Fraud, Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

TEXT OF RULE AND FORM AMENDMENTS

For reasons set forth in the preamble, we are amending title 17, chapter II of the *Code of Federal Regulations* as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

1. The authority citation for part 229 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z-2, 77z-3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j-3, 78l, 78m, 78n, 78n-1, 78o, 78u-5, 78w, 78ll, 78 mm, 80a-8, 80a-9, 80a-20, 80a-29, 80a-30, 80a-31(c), 80a-37, 80a-38(a), 80a-39, 80b-11 and 7201 *et seq.*; 18 U.S.C. 1350; sec. 953(b), Pub. L. 111-203, 124 Stat. 1904 (2010); and sec. 102(c), Pub. L. 112-106, 126 Stat. 310 (2012).

2. Amend §229.601 by revising paragraphs (b)(101)(i) introductory text, (b)(101)(i)(C), (b)(101)(ii)(A), and (b)(101)(iii) to read as follows:

§229.601 (Item 601) Exhibits.

* * * * *

(b) * * *

(101) * * *

(i) *Required to be submitted.* Required to be submitted to the Commission in the manner provided by §232.405 of this chapter if the registrant is not registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), except that an Interactive Data File:

* * * * *

(C) Is required for a Form 8-K (§249.308 of this chapter):

(I) Only when the Form 8-K contains audited annual financial statements that are a revised version of financial statements that previously were filed with the Commission and that have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a change in accounting principle. In such case, the Interactive

Data File will be required only as to such revised financial statements regardless of whether the Form 8-K contains other financial statements; and

(2) Except that a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)) also is required to submit an Interactive Data File to the extent required by §232.405(b)(3)(iii) of this chapter.

(ii) * * *

(A) Registrant is not registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*); and

* * * * *

(iii) *Not permitted to be submitted.* Not permitted to be submitted to the Commission if the registrant is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*).

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o-7 note, 78t, 78w, 78ll(d), 78mm, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, and Pub. L. 112-106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

Sec. 230.457 also issued under secs. 6 and 7, 15 U.S.C. 77f and 77g.

* * * * *

4. Amend §230.134 by revising paragraph (g) to read as follows:

§230.134 Communications not deemed a prospectus.

* * * * *

(g) This section does not apply to a communication relating to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company.

5. Amend §230.138 by:

- a. Removing Instruction to paragraph (a)(1);
- b. Adding paragraph (a)(1)(iii); and
- c. Revising paragraph (a)(2)(i).

The addition and revision read as follows:

§230.138 Publications or distributions of research reports by brokers or dealers about securities other than those they are distributing.

(a) * * *

(1) * * *

(iii) Note: If the issuer has filed a shelf registration statement under §230.415(a)(1)(x) (Rule 415(a)(1)(x)) or pursuant to General Instruction I.D. of Form S-3, General Instruction I.C. of Form F-3 (§239.13 or §239.33 of this chapter), or pursuant to General Instructions A.2 and B of Form N-2 (§§239.14 and 274.11a-1 of this chapter) with respect to multiple classes of securities, the conditions of paragraph (a)(1) of this section must be satisfied for the offering in which the broker or dealer is participating or will participate.

(2) * * *

(i)(A) Is required to file reports, and has filed all periodic reports required during the preceding 12 months (or such shorter time that the issuer was required to file such reports) on Forms 10-K (§249.310 of this chapter), 10-Q (§249.308a of this chapter), and 20-F (§249.220f of this chapter) pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); or

(B)(I) Is a registered closed-end investment company; and

(2) Is required to file reports, and has filed all periodic reports required during the preceding 12 months (or such shorter time that the issuer was required to file such reports) on Forms N-CSR (§§249.331 and 274.128 of this chapter), N-PORT (§274.150 of this chapter), and N-CEN (§§249.330 and 274.101 of this chapter) pursuant to Section 30 of the Investment Company Act; or

* * * * *

6. Amend §230.156 by adding paragraph (d) to read as follows:

§230.156 Investment company sales literature.

* * * * *

(d) Nothing in this section may be construed to prevent a business development company or a registered closed-end investment company from qualifying for an exemption under §230.168 or §230.169.

7. Amend §230.163 by:

a. In paragraph (b)(3)(i):

i. Removing “Rule 165 (§230.165) or Rule 166 (§230.166)” and adding “§230.165 (Rule 165) or §230.166 (Rule 166)” in its place; and

ii. Adding “or” after the semicolon at the end of the paragraph;

- b. Revising paragraph (b)(3)(ii); and
- c. Removing paragraph (b)(3)(iii).

The revision reads as follows:

§230.163 Exemption from section 5(c) of the Act for certain communications by or on behalf of well-known seasoned issuers.

* * * * *

- (b) * * *
- (3) * * *

(ii) Communications by an issuer that is an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company.

* * * * *

- 8. Amend §230.163A by revising paragraph (b)(4) to read as follows:

§230.163A Exemption from section 5(c) of the Act for certain communications made by or on behalf of issuers more than 30 days before a registration statement is filed.

* * * * *

- (b) * * *

(4) Communications made by an issuer that is an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company.

* * * * *

- 9. Amend §230.164 by revising paragraph (f) to read as follows:

§230.164 Post-filing free writing prospectuses in connection with certain registered offerings.

* * * * *

(f) *Excluded issuers.* This section and Rule 433 are not available if the issuer is an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company.

* * * * *

10. Amend §230.168 by revising paragraphs (b)(1) introductory text, (b)(2) introductory text, and (d)(3) to read as follows:

§230.168 Exemption from sections 2(a)(10) and 5(c) of the Act for certain communications of regularly released factual business information and forward-looking information.

* * * * *

(b) * * *

(1) *Factual business information* means some or all of the following information that is released or disseminated under the conditions in paragraph (d) of this section, including, without limitation, such factual business information contained in reports or other materials filed with, furnished to, or submitted to the Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*):

* * * * *

(2) *Forward-looking information* means some or all of the following information that is released or disseminated under the conditions in paragraph (d) of this section, including, without limitation, such forward-looking information contained in reports or other materials filed with,

furnished to, or submitted to the Commission pursuant to the Securities Exchange Act of 1934 or pursuant to the Investment Company Act of 1940:

* * * * *

(d) * * *

(3) The issuer is not an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company.

11. Amend §230.169 by revising paragraph (d)(4) to read as follows:

§230.169 Exemption from sections 2(a)(10) and 5(c) of the Act for certain communications of regularly released factual business information.

* * * * *

(d) * * *

(4) The issuer is not an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company.

12. Amend §230.172 by:

- a. Revising paragraph (d)(1);
- b. Removing paragraph (d)(2);
- c. Redesignating paragraphs (d)(3) and (4) as paragraphs (d)(2) and (3); and
- d. In newly redesignated paragraph (d)(2), removing “Rule 165(f)(1) (§230.165(f)(1))” and adding “§230.165(f)(1) (Rule 165(f)(1))” in its place.

The revision reads as follows:

§230.172 Delivery of prospectuses.

* * * * *

(d) * * *

(1) Offering of any investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company;

* * * * *

13. Amend §230.173 by:

- a. Revising paragraph (f)(2);
- b. Removing paragraph (f)(3);
- c. Redesignating paragraphs (f)(4) and (5) as paragraphs (f)(3) and (4); and
- d. In newly redesignated paragraph (f)(3), removing “Rule 165(f)(1) (§230.165(f)(1))” and adding “§230.165(f)(1) (Rule 165(f)(1))” in its place.

The revision reads as follows:

§230.173 Notice of registration.

* * * * *

(f) * * *

(2) Offering of an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company;

* * * * *

14. Amend §230.405 by:

- a. Revising the definition of “Automatic shelf registration statement”;

- b. Adding the definition for “Exchange-traded vehicle security” in alphabetical order;
- c. In the definition of “Ineligible issuer”:
 - i. Revising paragraph (1)(i);
 - ii. In paragraph (1)(vii), removing the word “or” at the end of the paragraph;
 - iii. In paragraph (1)(viii), removing the period and adding in its place “; or”; and
 - iv. Adding paragraph (1)(ix);
- d. Adding the definition for “Registered closed-end investment company” in alphabetical order; and
- e. In the definition “Well-known seasoned issuer”, revising paragraphs (1)(i) introductory text, (1)(i)(B)(2), (1)(v), and (2)(iii).

The additions and revisions read as follows:

§230.405 Definitions of terms.

* * * * *

Automatic shelf registration statement. The term *automatic shelf registration statement* means a registration statement filed on Form S-3, Form F-3, or Form N-2 (§239.13, §239.33, or §§239.14 and 274.11a-1 of this chapter) by a well-known seasoned issuer pursuant to General Instruction I.D. of Form S-3, General Instruction I.C. of Form F-3, or General Instruction B of Form N-2.

* * * * *

Exchange-traded vehicle security. The term *exchange-traded vehicle security* means a security:

- (1) Of an issuer:

(i) That is not a registered investment company under the Investment Company Act of 1940; and

(ii) The assets of which consist primarily of commodities, currencies, or derivative instruments that reference commodities or currencies, or interests in the foregoing;

(2) Offered or sold in a registered offering on a continuous basis pursuant to § 230.415 (Rule 415) by or on behalf of the issuer;

(3) Of a class of securities that is listed for trading on a national securities exchange at or immediately after the time of effectiveness of the registration statement; and

(4) Which is able to be purchased or redeemed, subject to conditions or limitations as described in the registration statement for the offering of such security, by the issuer for a ratable share of the issuer's assets (or the cash equivalent thereof) at their net asset value each business day.

* * * * *

Ineligible issuer. (1) * * *

(i) Any issuer that is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) or section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a-29) that has not filed all reports and other materials required to be filed during the preceding 12 months (or for such shorter period that the issuer was required to file such reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 or section 30 of the Investment Company Act of 1940), other than reports on Form 8-K (§249.308 of this chapter) required solely pursuant to an item specified in General Instruction I.A.3(b) of Form S-3 (§239.13 of this chapter) or General Instruction A.2.a of Form N-2 (§§239.14 and 274.11a-1 of this chapter) (or in the case of an asset-backed issuer, to the extent

the depositor or any issuing entity previously established, directly or indirectly, by the depositor (as such terms are defined in §229.1101 of this chapter (Item 1101 of Regulation AB) are or were at any time during the preceding 12 calendar months required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 with respect to a class of asset-backed securities involving the same asset class, such depositor and each such issuing entity must have filed all reports and other material required to be filed for such period (or such shorter period that each such entity was required to file such reports), other than reports on Form 8-K required solely pursuant to an item specified in General Instruction I.A.2 of Form SF-3);

* * * * *

(ix) In the case of an issuer that is a registered closed-end investment company or a business development company, within the past three years any person or entity that at the time was an investment adviser to the issuer, including any sub-adviser, was made the subject of any judicial or administrative decree or order arising out of a governmental action that determines that the investment adviser aided, abetted or caused the issuer to have violated the anti-fraud provisions of the Federal securities laws.

* * * * *

Registered closed-end investment company. The term *registered closed-end investment company* means a closed-end company, as defined in section 5(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-5(a)(2)), that is registered under the Investment Company Act.

* * * * *

Well-known seasoned issuer. * * *

(1)(i) Meets all the registrant requirements of General Instruction I.A. of Form S-3 or Form F-3 (§239.13 or §239.33 of this chapter), or General Instructions A.2.a and A.2.b of Form N-2 (§§239.14 and 274.11a-1 of this chapter) and either:

* * * * *

(B) * * *

(2) Will register only non-convertible securities, other than common equity, and full and unconditional guarantees permitted pursuant to paragraph (1)(ii) of this definition unless, at the determination date, the issuer also is eligible to register a primary offering of its securities relying on General Instruction I.B.1. of Form S-3 or Form F-3 or is eligible to register a primary offering described in General Instruction I.B.1. of Form S-3 relying on General Instruction A.2 of Form N-2.

* * * * *

(v) Is not an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than a registered closed-end investment company.

(2) * * *

(iii) In the event that the issuer has not filed a shelf registration statement or amended a shelf registration statement for purposes of complying with section 10(a)(3) of the Act for sixteen months, the time of filing of the issuer's most recent annual report on Form 10-K (§249.310 of this chapter), Form 20-F (§249.220f of this chapter), or Form N-CSR (§§249.331 and 274.128 of this chapter) (or if such report has not been filed by its due date, such due date).

* * * * *

15. Amend §230.415 by revising paragraphs (a)(1)(x) and (xi), adding paragraph (a)(1)(xiii), and revising paragraph (a)(2) to read as follows:

§230.415 Delayed or continuous offering and sale of securities.

(a) * * *

(1) * * *

(x) Securities registered (or qualified to be registered) on Form S-3 or Form F-3 (§239.13 or §239.33 of this chapter), or on Form N-2 (§§239.14 and 274.11a-1 of this chapter) pursuant to General Instruction A.2 of that form, which are to be offered and sold on an immediate, continuous or delayed basis by or on behalf of the registrant, a majority-owned subsidiary of the registrant or a person of which the registrant is a majority-owned subsidiary; or

(xi) Shares of common stock which are to be offered and sold on a delayed or continuous basis by or on behalf of a registered closed-end investment company or business development company that makes periodic repurchase offers pursuant to §270.23c-3 of this chapter.

* * * * *

(xiii) Exchange-traded vehicle securities which are to be offered and sold on a continuous basis by or on behalf of the registrant in accordance with § 230.456(d) (Rule 456(d)).

(2) Securities in paragraphs (a)(1)(viii) and (ix) of this section that are not registered on Form S-3 or Form F-3 (§239.13 or §239.33 of this chapter), or on Form N-2 (§§239.14 and 274.11a-1 of this chapter) pursuant to General Instruction A.2 of that form, may only be registered in an amount which, at the time the registration statement becomes effective, is reasonably expected to be offered and sold within two years from the initial effective date of the registration.

* * * * *

16. Amend §230.418 by revising paragraph (a)(3) introductory text to read as follows:

§230.418 Supplemental information.

(a) * * *

(3) Except in the case of a registrant eligible to use Form S-3 (§239.13 of this chapter), or Form N-2 (§§239.14 and 274.11a-1 of this chapter) under General Instruction A.2 of that form, any engineering, management or similar reports or memoranda relating to broad aspects of the business, operations or products of the registrant, which have been prepared within the past twelve months for or by the registrant and any affiliate of the registrant or any principal underwriter, as defined in §230.405 (Rule 405), of the securities being registered except for:

* * * * *

17. Amend §230.424 by revising paragraph (f) and adding paragraph (i) to read as follows:

§230.424 Filing of prospectuses, number of copies.

* * * * *

(f) This section shall not apply with respect to prospectuses of an investment company registered under the Investment Company Act of 1940, other than a registered closed-end investment company. References to “form of prospectus” in paragraphs (a), (b), and (c) of this section shall be deemed also to refer to the form of Statement of Additional Information.

* * * * *

(i)(1) A form of prospectus filed pursuant to this section that operates to reflect the payment of filing fees for an offering of an indeterminate amount of exchange-traded vehicle securities pursuant to §§ 230.456(d) and 230.457(u) (Rule 456(d) and Rule 457(u)) shall be filed with the Commission within the time period set forth in Rule 456(d). The form of prospectus must be accompanied by the appropriate registration fee.

(2) The form of prospectus must include the following information:

- (i) The name and address of issuer;
- (ii) The name of the securities for which the prospectus is filed;
- (iii) The Securities Act file number(s) of the registration statement(s) associated with the offering;
- (iv) The last day of the fiscal year for the issuer for which the prospectus is filed;
- (v) The calculation of registration fee information calculated pursuant to Rule 457(u); and
- (vi) The total interest due pursuant to Rule 456(d)(5) and the total amount of registration fee due including any such interest, if the prospectus is being filed more than 90 days after the end of the issuer's fiscal year.

18. Amend §230.430A by revising paragraph (a)(2) to read as follows:

§230.430A Prospectus in a registration statement at the time of effectiveness

(a) * * *

(2) The registrant furnishes the undertakings required by §229.512(i) of this chapter (Item 512(i) of Regulation S-K), or the undertakings required by Item 34.4 of Form N-2 (§§239.14 and 274.11a-1 of this chapter); and

* * * * *

19. Amend §230.430B by revising paragraphs (b) introductory text, (f)(4) introductory text, (f)(4)(ii), and (i) to read as follows:

§230.430B Prospectus in a registration statement after effective date.

* * * * *

(b) A form of prospectus filed as part of a registration statement for offerings pursuant to Rule 415(a)(1)(i) by an issuer eligible to use Form S-3 or Form F-3 (§239.13 or §239.33 of this

chapter) for primary offerings pursuant to General Instruction I.B.1 of such forms, or an issuer eligible to register such a primary offering under General Instruction A.2 of Form N-2 (§§239.14 and 274.11a-1 of this chapter), may omit the information specified in paragraph (a) of this section, and may also omit the identities of selling security holders and amounts of securities to be registered on their behalf if:

* * * * *

(f) * * *

(4) Except for an effective date resulting from the filing of a form of prospectus filed for purposes of including information required by section 10(a)(3) of the Act or pursuant to §229.512(a)(1)(ii) of this chapter (Item 512(a)(1)(ii) of Regulation S-K) or Item 34.3.a(2) of Form N-2 (§§239.14 and 274.11a-1 of this chapter), the date a form of prospectus is deemed part of and included in the registration statement pursuant to this paragraph (f)(4) shall not be an effective date established pursuant to paragraph (f)(2) of this section as to:

* * * * *

(ii) Any person signing any report or document incorporated by reference into the registration statement, except for such a report or document incorporated by reference for purposes of including information required by section 10(a)(3) of the Act or pursuant to Item 512(a)(1)(ii) of Regulation S-K or Item 34.3.a(2) of Form N-2 (§§239.14 and 274.11a-1 of this chapter) (such person except for such reports being deemed not to be a person who signed the registration statement within the meaning of section 11(a) of the Act).

* * * * *

(i) Issuers relying on this section shall furnish the undertakings required by Item 512(a) of Regulation S-K or Item 34.3 of Form N-2 (§§239.14 and 274.11a-1 of this chapter) as applicable.

20. Amend §230.433 by revising paragraphs (b)(1)(i) and (iv) and (c)(1)(ii) to read as follows:

§230.433 Conditions to permissible post-filing free writing prospectuses.

* * * * *

(b) * * *

(1) * * *

(i) Offerings of securities registered on Form S-3 (§239.33 of this chapter) pursuant to General Instruction I.B.1, I.B.2, I.C., or I.D. thereof or on Form SF-3 (§239.45 of this chapter) or on Form N-2 (§§239.14 and 274.11a-1 of this chapter) pursuant to General Instruction A.2 with respect to the same transactions;

* * * * *

(iv) Any other offering not excluded from reliance on this section and Rule 164 of securities of an issuer eligible to use Form S-3 or Form F-3 for primary offerings pursuant to General Instruction I.B.1 of such Forms or an issuer eligible to use General Instruction A.2 of Form N-2 to register a primary offering described in General Instruction I.B.1 of Form S-3.

* * * * *

(c) * * *

(1) * * *

(ii) Information contained in the issuer's periodic and current reports filed or furnished to the Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 (15

U.S.C. 78m or 78o(d)) that are incorporated by reference into the registration statement and not superseded or modified, or pursuant to section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a-29).

* * * * *

21. Effective August 1, 2021, amend §230.456 by adding paragraph (d) to read as follows:

§230.456 Date of filing; timing of fee payment.

* * * * *

(d)(1) Notwithstanding paragraph (a) of this section, where a registration statement relates to an offering of exchange-traded vehicle securities, an issuer may elect to register an offering of an indeterminate amount of such securities if it meets the following conditions:

(i) The issuer must state in the “Calculation of Registration Fee” table that it is offering an indeterminate amount of such securities; and

(ii) The issuer must, not later than 90 days after the end of any fiscal year during which it has publicly offered such securities, pay a registration fee to the Commission calculated in accordance with § 230.457(u) (Rule 457(u)) and file a prospectus in accordance with § 230.424(i) (Rule 424(i)).

Instruction 1 to paragraph (d)(1)(ii): To determine the date on which the registration fee must be paid, the first day of the 90-day period is the first calendar day of the fiscal year following the fiscal year for which the registration fee is to be paid. If the last day of the 90-day period falls on a Saturday, Sunday, or Federal holiday, the registration fee is due on the first business day thereafter.

(2) If a registrant elects to register an offering of an indeterminate amount of exchange-traded vehicle securities pursuant to paragraph (d)(1) of this section, the securities sold will be

considered registered, for purposes of section 6(a) of the Act, if the registration fee has been paid and a prospectus is filed pursuant to paragraph (d)(1) not later than the end of the 90-day period.

(3) A registration statement filed relying on the registration fee payment provisions of paragraph (d)(1) of this section will be considered filed as to the securities identified in the registration statement for purposes of this section and section 5 of the Act when it is received by the Commission, if it complies with all other requirements under the Act, including this part.

(4) For purposes of this section, if an issuer ceases operations, the date the issuer ceases operations will be deemed to be the end of its fiscal year. In the case of a liquidation, merger, or sale of all or substantially all of the assets (“merger”) of the issuer, the issuer will be deemed to have ceased operations for the purposes of this section on the date the merger is consummated; provided, however, that in the case of a merger of an issuer or a series of an issuer (“Predecessor Issuer”) with another issuer or a series of an issuer (“Successor Issuer”), the Predecessor Issuer will not be deemed to have ceased operations and the Successor Issuer will assume the obligations, fees, and redemption credits of the Predecessor Issuer incurred pursuant to this section if the Successor Issuer:

(i) Had no assets or liabilities, other than nominal assets or liabilities, and no operating history immediately prior to the merger;

(ii) Acquired substantially all of the assets and assumed substantially all of the liabilities and obligations of the Predecessor Issuer; and

(iii) The merger is not designed to result in the Predecessor Issuer merging with, or substantially all of its assets being acquired by, an issuer (or a series of an issuer) that would not meet the conditions of paragraph (d)(4)(i) of this section.

(5) An issuer paying the fee required by paragraph (d)(1) of this section or any portion thereof more than 90 days after the end of the fiscal year of the issuer shall pay to the Commission interest on unpaid amounts, calculated based on the interest rate in effect at the time of the interest payment by reference to the “current value of funds rate” on the Treasury Department’s Financial Management Service Internet site at <http://www.fms.treas.gov>, or by calling (202) 874-6995, and using the following formula: $I = (X) (Y) (Z/365)$, where: I = Amount of interest due; X = Amount of registration fee due; Y = Applicable interest rate, expressed as a fraction; Z = Number of days by which the registration fee payment is late. The payment of interest pursuant to this paragraph (d)(5) shall not preclude the Commission from bringing an action to enforce the requirements of this paragraph (d).

(6) An immaterial or unintentional failure to comply with a requirement of this paragraph (d) will not result in a violation of section 6(a) of the Act (15 U.S.C. 77f(a)), so long as:

- (i) A good faith and reasonable effort was made to comply with the requirement; and
- (ii) In the case of a late payment of a registration fee, the issuer pays the registration fee and any interest due thereon as soon as practicable after discovery of the failure to pay the registration fee.

22. Effective August 1, 2021, amend §230.457 by adding paragraph (u) to read as follows:

§230.457 Computation of fee.

* * * * *

(u) Where an issuer elects to register an offering of an indeterminate amount of exchange-traded vehicle securities in accordance with § 230.456(d) (Rule 456(d)), the registration fee is to be calculated in the following manner:

- (1) Determine the aggregate sale price of securities sold during the fiscal year.

(2) Determine the sum of:

(i) The aggregate redemption or repurchase price of securities redeemed or repurchased during the fiscal year; and

(ii) The aggregate redemption or repurchase price of securities redeemed or repurchased during any prior fiscal year ending no earlier than August 1, 2021, that were not used previously to reduce registration fees payable to the Commission.

(3) Subtract the amount in paragraph (u)(2) of this section from the amount in paragraph (u)(1) of this section. If the resulting amount is positive, the amount is the net sales amount. If the resulting amount is negative, it is the amount of redemption credits available for use in future years to offset sales.

(4) The registration fee is calculated by multiplying the net sales amount by the fee payment rate in effect on the date of the fee payment. If the issuer determines that it had net redemptions or repurchases for the fiscal year, no registration fee is due.

23. Amend §230.462 by revising paragraph (f) to read as follows:

§230.462 Immediate effectiveness of certain registration statements and post-effective amendments.

* * * * *

(f) A post-effective amendment filed pursuant to paragraph (e) of this section for purposes of adding a new issuer and its securities as permitted by §230.413(b) (Rule 413(b)) that satisfies the requirements of Form S-3, Form F-3, or General Instruction A.2 of Form N-2 (§239.13, §239.33, or §§239.14 and 274.11a-1 of this chapter), as applicable, including the signatures required by §230.402(e) (Rule 402(e)), and contains a prospectus satisfying the

requirements of §230.430B (Rule 430B), shall become effective upon filing with the Commission.

24. Amend §230.486 by:

- a. Revising paragraphs (a), (b) introductory text, and (b)(1)(iv);
- b. Removing “and” at the end of paragraph (b)(1)(v);
- c. Redesignating paragraph (b)(1)(vi) as paragraph (b)(1)(vii);
- d. Adding new paragraph (b)(1)(vi);
- e. Revising the introductory text to paragraph (b)(2); and
- f. Adding paragraph (g).

The revisions and additions read as follows:

§230.486 Effective date of post-effective amendments and registration statements filed by certain closed-end management investment companies.

(a) *Automatic effectiveness.* Except as otherwise provided in this section, a post-effective amendment to a registration statement, or a registration statement described in paragraph (g) of this section, filed by a registered closed-end management investment company or business development company which makes periodic repurchase offers under §270.23c-3 of this chapter or which offers securities under §230.415(a)(1)(ix), shall become effective on the sixtieth day after the filing thereof, or a later date designated by the registrant on the facing sheet of the amendment or registration statement, which date shall not be later than eighty days after the date on which the amendment or registration statement is filed, *Provided*, that the Commission, having due regard to the public interest and the protection of investors, may declare an amendment or registration statement filed under this paragraph (a) effective on an earlier date.

(b) *Immediate effectiveness.* Except as otherwise provided in this section, a post-effective amendment to a registration statement, or a registration statement, filed by a registered closed-end management investment company or business development company which makes periodic repurchase offers under §270.23c-3 of this chapter or which offers securities under §230.415(a)(1)(ix), shall become effective on the date on which it is filed with the Commission, or a later date designated by the registrant on the facing sheet of the amendment or registration statement, which date shall be not later than thirty days after the date on which the amendment or registration statement is filed, except that a post-effective amendment including a designation of a new effective date under paragraph (b)(1)(iii) of this section shall become effective on the new effective date designated therein, *Provided*, that the following conditions are met:

(1) * * *

(iv) Disclosing or updating the information required by Item 9.1.c of Form N-2 [17 CFR 239.14 and 274.11a-1];

* * * * *

(vi) Complying with §230.415(a)(5) and (6); and

* * * * *

(2) The registrant represents that the amendment is filed solely for one or more of the purposes specified in paragraph (b)(1) of this section and that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) or one for which the Commission has approved a filing under paragraph (b)(1)(vii) of this section, has occurred since the latest of the following three dates:

* * * * *

(g) *Registration statements.* A registration statement can become effective under paragraph (a) of this section if it is filed for the purpose of:

(1) Registering additional shares of common stock for which a registration statement filed on Form N-2 (§§239.14 and 274.11a-1 of this chapter) is effective; or

(2) Complying with §230.415(a)(5) and (6).

25. Amend §230.497 by:

- a. Remove from paragraphs (c) and (e) the text “Form N-2 (§§239.14 and 274.11a-1 of this chapter),”;
- b. Removing the heading from paragraph (k);
- c. Adding paragraph (l); and
- d. Removing the parenthetical authority citation at the end of the section.

The addition reads as follows:

§230.497 Filing of investment company prospectuses—number of copies.

* * * * *

(l) Except for an investment company advertisement deemed to be a section 10(b) prospectus pursuant to §230.482, this section shall not apply with respect to prospectuses of a registered closed-end investment company, or a business development company.

PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

26. The general authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

27. Amend §232.11 by revising the section heading and the definition of “Related Official Filing” to read as follows:

§232.11 Definition of terms used in this part.

* * * * *

Related Official Filing. The term *Related Official Filing* means the ASCII or HTML format part of the official filing with which all or part of an Interactive Data File appears as an exhibit or, in the case of a filing on Form N-1A (§§239.15A and 274.11A of this chapter), Form N-2 (§§239.14 and 274.11a-1 of this chapter), Form N-3 (§§239.17a and 274.11b of this chapter), Form N-4 (§§239.17b and 274.11c of this chapter), Form N-6 (§§239.17c and 274.11d of this chapter), and Form N-CSR (§274.128 of this chapter), and, to the extent required by § 232.405 [Rule 405 of Regulation S-T] for a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), Form 10-K (§249.310 of this chapter), Form 10-Q (§249.308a of this chapter), and Form 8-K (§249.308 of this chapter), the ASCII or HTML format part of an official filing that contains the information to which an Interactive Data File corresponds.

* * * * *

28. Amend §232.405 by:
- a. Revising the introductory text and paragraphs (a)(2), (a)(3)(i) introductory text, (a)(3)(ii), and (a)(4);
 - b. Adding a heading for paragraph (b);
 - c. Removing the heading and revising the introductory text of paragraph (b)(1);
 - d. Adding paragraph (b)(3); and

- e. Redesignating the note to §232.405 as note 2 to §232.405 and revising the last sentence of newly redesignated note 2 to §232.405.

The revisions and addition read as follows:

§232.405 Interactive Data File submissions.

This section applies to electronic filers that submit Interactive Data Files. Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F-10 (§239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20-F (§249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40-F (§249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6-K (§249.306 of this chapter), General Instruction C.3.(g) of Form N-1A (§§239.15A and 274.11A of this chapter), General Instruction I of Form N-2 (§§239.14 and 274.11a-1 of this chapter), General Instruction C.3.(h) of Form N-3 (§§239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N-4 (§§239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N-6 (§§239.17c and 274.11d of this chapter), and General Instruction C.4 of Form N-CSR (§274.128 of this chapter) specify when electronic filers are required or permitted to submit an Interactive Data File (§232.11), as further described in note 2 to this section. This section imposes content, format, and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§232.11).

- (a) * * *

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by §229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S-K), paragraph (101) of Part II—Information Not Required to be Delivered to

Offerees or Purchasers of Form F-10 (§239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20-F (§249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40-F (§249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6-K (§249.306 of this chapter), General Instruction C.3.(g) of Form N-1A (§§239.15A and 274.11A of this chapter), General Instruction I of Form N-2 (§§239.14 and 274.11a-1 of this chapter), General Instruction C.3.(h) of Form N-3 (§§239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N-4 (§§239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N-6 (§§239.17c and 274.11d of this chapter), or General Instruction C.4 of Form N-CSR (§274.128 of this chapter), as applicable;

(3) * * *

(i) If the electronic filer is neither a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), nor a separate account as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, nor a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), and is not within one of the categories specified in paragraph (f)(1)(i) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to:

* * * * *

(ii) If the electronic filer is either a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), or a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), and is not within one of the

categories specified in paragraph (f)(1)(ii) of this section, as partly embedded into a filing with the remainder simultaneously submitted as an exhibit to a filing that contains the disclosure this section requires to be tagged; and

(4) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either Item 601(b)(101) of Regulation S-K (§229.601(b)(101) of this chapter), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F-10 (§239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20-F (§249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40-F (§249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6-K (§249.306 of this chapter), General Instruction C.3.(g) of Form N-1A (§§239.15A and 274.11A of this chapter), General Instruction I of Form N-2 (§§239.14 and 274.11a-1 of this chapter), General Instruction C.3.(h) of Form N-3 (§§239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N-4 (§§239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N-6 (§§239.17c and 274.11d of this chapter); or General Instruction C.4 of Form N-CSR (§274.128 of this chapter).

(b) *Content—categories of information presented.* (1) If the electronic filer is neither a management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), nor a separate account (as defined in Section 2(a)(14) of the Securities Act (15 U.S.C. 77b(a)(14)) registered under the Investment Company Act of 1940, nor a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)) an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from all of the following categories:

* * * * *

(3) If the electronic filer is either a closed-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), an Interactive Data File must consist only of a complete set of information for all corresponding data in the Related Official Filing, no more and no less, as follows:

(i) For a business development company, for all periods required to be presented:

(A) The complete set of the electronic filer's financial statements (which includes the face of the financial statements and all footnotes); and

(B) All schedules set forth in §§ 210.12-01 through 210.12-29 of this chapter (Article 12 of Regulation S-X) related to the electronic filer's financial statements;

(ii) All of the information required on the cover page of Form N-2 (§§239.14 and 274.11a-1 of this chapter) except the Calculation of Registration Fee table; and

(iii) As applicable, all of the information provided in response to Items 3.1, 4.3, 8.2.b, 8.2.d, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a-d, 10.2.a-c, 10.2.e, 10.3, and 10.5 of Form N-2 in any registration statement or post-effective amendment thereto filed on Form N-2; or any form of prospectus filed pursuant to §230.424 of this chapter (Rule 424 under the Securities Act); or, if a Registrant is filing a registration statement pursuant to General Instruction A.2 of Form N-2, any filing on Form N-CSR, Form 10-K, Form 10-Q, or Form 8-K to the extent such information appears therein.

* * * * *

Note 2 to §232.405: * * * For an issuer that is a management investment company or separate account registered under the Investment Company Act of 1940

(15 U.S.C. 80a *et seq.*) or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), General Instruction C.3.(g) of Form N-1A (§§239.15A and 274.11A of this chapter), General Instruction I of Form N-2 (§§239.14 and 274.11a-1 of this chapter), General Instruction C.3.(h) of Form N-3 (§§239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N-4 (§§239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N-6 (§§239.17c and 274.11d of this chapter), and General Instruction C.4 of Form N-CSR (§274.128 of this chapter), as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

29. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o-7 note, 78u-5, 78w(a), 78ll, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37; and sec. 107, Pub. L. 112-106, 126 Stat. 312, unless otherwise noted.

Sections 239.31, 239.32 and 239.33 are also issued under 15 U.S.C. 78l, 78m, 78o, 78w, 80a-8, 80a-29, 80a-30, 80a-37 and 12 U.S.C. 241.

* * * * *

30. Effective August 1, 2021, amend Form S-1 (referenced in § 239.11) by revising the note that immediately follows the “Calculation of Registration Fee” table to read as follows:

Note: The text of Form S-1 does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM S-1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

CALCULATION OF REGISTRATION FEE

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table. If the filing fee is calculated pursuant to Rule 457(o) under the Securities Act, only the title of the class of securities to be registered, the proposed maximum aggregate offering price for that class of securities and the amount of registration fee need to appear in the Calculation of Registration Fee table. If an offering of an indeterminate amount of exchange-traded vehicle securities is being registered, state that the registration statement covers an indeterminate amount of securities to be offered or sold and that the filing fee will be calculated and paid in accordance with Rule 456(d) and Rule 457(u) (§ 230.456(d) and § 230.457(u) of this chapter), respectively. Any difference between the dollar amount of securities registered for such offerings and the dollar amount of securities sold may be carried forward on a future registration statement pursuant to Rule 429 under the Securities Act.

* * * * *

31. Effective August 1, 2021, amend Form S-3 (referenced in § 239.13) by adding Instruction 5 to the notes that immediately follow the “Calculation of Registration Fee” table to read as follows:

Note: The text of Form S-3 does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

CALCULATION OF REGISTRATION FEE

* * * * *

5. If an offering of an indeterminate amount of exchange-traded vehicle securities is being registered, the Fee Table must state that the registration statement covers an indeterminate amount of securities to be offered or sold and the filing fee will be calculated and paid in accordance with Rule 456(d) and Rule 457(u) (§ 230.456(d) and § 230.457(u) of this chapter), respectively.

* * * * *

32. Amend Form N-14 (referenced in §239.23) by revising the first and second undesignated paragraphs of General Instruction G to read as follows:

Note: The text of Form N-14 does not, and these amendments will not, appear in the *Code of Federal Regulations*.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM N-14

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

G. Incorporation by Reference and Delivery of Prospectuses or Reports Filed with the Commission

If any party to a transaction registered on Form N-14 is registered under the 1940 Act or is a business development company as defined by Section 2(a)(48) of the 1940 Act and has a current prospectus which meets the requirements of Section 10(a)(3) of the 1933 Act or is current in its reports filed pursuant to Section 13(a) or 15(d) of the 1934 Act and Section 30 of the 1940 Act, the registrant may, if it so elects, incorporate by reference the prospectus, the corresponding Statement of Additional Information, or reports, or any information in the prospectus, the corresponding Statement of Additional Information, or reports, which satisfies the disclosure required by Items 5, 6, and 11 through 14 of this Form. If the registrant elects to incorporate information by reference into the prospectus, a copy of each document from which information is incorporated by reference must accompany the prospectus, except that a prospectus from which information has been incorporated by reference need not be sent to an investor if the obligation to deliver a prospectus under Section 5(b)(2) of the Securities Act [15 U.S.C. 77e] has already been satisfied with respect to that investor pursuant to Rule 498A(j) for the offering described in the prospectus being incorporated by reference. Notwithstanding the foregoing the registrant may, at its discretion, incorporate any or all of the Statement of Additional Information into the prospectus delivered to investors, without delivering the Statement with the prospectus, so long as the Statement of Additional Information is available to investors as provided in General Instruction F. The registrant also may incorporate by reference into the prospectus information about the company being acquired without delivering the

information with the prospectus under certain conditions pursuant to Item 6 of Form N-14, and in accordance with the requirements of Instruction F.

If the registrant elects to incorporate information by reference into the Statement of Additional Information, a copy of each document from which information is incorporated by reference must accompany the Statement of Additional Information sent to shareholders.

* * * * *

33. Effective August 1, 2021, amend Form F-1 (referenced in § 239.31) by revising the note that immediately follows the “Calculation of Registration Fee” table to read as follows:

Note: The text of Form F-1 does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM F-1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

CALCULATION OF REGISTRATION FEE

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table. If the filing fee is calculated pursuant to Rule 457(o) under the Securities Act, only the title of the class of securities to be registered, the proposed maximum aggregate offering price for that class of securities and the amount of registration fee need to appear in the Calculation of Registration Fee

table. If an offering of an indeterminate amount of exchange-traded vehicle securities is being registered, state that the registration statement covers an indeterminate amount of securities to be offered or sold and that the filing fee will be calculated and paid in accordance with Rule 456(d) and Rule 457(u) (§ 230.456(d) and § 230.457(u) of this chapter), respectively. Any difference between the dollar amount of securities registered for such offerings and the dollar amount of securities sold may be carried forward on a future registration statement pursuant to Rule 429 under the Securities Act.

* * * * *

34. Effective August 1, 2021, amend Form F-3 (referenced in § 239.33) by adding Instruction 5 to the notes that immediately follow the “Calculation of Registration Fee” table to read as follows:

Note: The text of Form F-3 does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM F-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

5. If an offering of an indeterminate amount of exchange-traded vehicle securities is being registered, the Fee Table must state that the registration statement covers an indeterminate amount of securities to be offered or sold and that the filing fee will be calculated and paid in

accordance with Rule 456(d) and Rule 457(u) (§ 230.456(d) and § 230.457(u) of this chapter), respectively.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

35. The general authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c-3, 78c-5, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78n-1, 78o, 78o-4, 78o-10, 78p, 78q, 78q-1, 78s, 78u-5, 78w, 78x, 78dd, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 *et seq.*, and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111-203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112-106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

36. Amend §240.14a-101 by:

- a. Revising paragraph E of the “Notes” section; and
- b. Revising paragraph (b)(1) of “Item 13. Financial and other information.”
(See Notes D and E at the beginning of this Schedule.)”.

The revisions read as follows:

§240.14a-101 Schedule 14A. Information required in proxy statement.

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

* * * * *

NOTES

Notes: * * *

E. In Item 13 of this Schedule, the reference to “meets the requirement of Form S-3” or “meets the requirements of General Instruction A.2 of Form N-2” shall refer to a registrant who meets the following requirements:

(a) A registrant meets the requirements of Form S-3 if:

(1) The registrant meets the requirements of General Instruction I.A. of Form S-3 (§239.13 of this chapter); and

(2) One of the following is met:

(i) The registrant meets the aggregate market value requirement of General Instruction I.B.1 of Form S-3; or

(ii) Action is to be taken as described in Items 11, 12, and 14 of this schedule which concerns non-convertible debt or preferred securities issued by a registrant meeting the requirements of General Instruction I.B.2. of Form S-3 (referenced in 17 CFR 239.13); or

(iii) The registrant is a majority-owned subsidiary and one of the conditions of General Instruction I.C. of Form S-3 is met.

(b) A registrant meets the requirements of General Instruction A.2 of Form N-2 (§§239.14 and 274.11a-1 of this chapter) if the registrant meets the conditions included in such General Instruction, provided that General Instruction A.2.c of Form N-2 is subject to the same limitations described in paragraph (a)(2) of this Note E.

* * * * *

Item 13. Financial and other information. (See Notes D and E at the beginning of this Schedule.)

* * * * *

(b) * * *

(1) *S-3 registrants and certain N-2 registrants*. If the registrant meets the requirements of Form S-3 or General Instruction A.2 of Form N-2 (see Note E to this Schedule), it may incorporate by reference to previously-filed documents any of the information required by paragraph (a) of this Item, provided that the requirements of paragraph (c) are met. Where the registrant meets the requirements of Form S-3 or General Instruction A.2 of Form N-2 and has elected to furnish the required information by incorporation by reference, the registrant may elect to update the information so incorporated by reference to information in subsequently-filed documents.

* * * * *

PART 243—REGULATION FD

37. The authority citation for part 243 continues to read as follows:

Authority: 15 U.S.C. 78c, 78i, 78j, 78m, 78o, 78w, 78mm, and 80a-29, unless otherwise noted.

38. Amend §243.103 by revising paragraph (a) to read as follows:

§243.103 No effect on Exchange Act reporting status.

* * * * *

(a) For purposes of Forms S-3 (17 CFR 239.13), S-8 (17 CFR 239.16b) and SF-3 (17 CFR 239.45) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), or Form N-2 (17 CFR 239.14 and 274.11a-1) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), an issuer is deemed to have filed all the material required to be filed pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) or where applicable, has made those filings in a timely manner; or

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

39. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, 80a-39, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

Section 270.23c-3 also issued under 15 U.S.C. 80a-23(c).

Section 270.24f-2 also issued under 15 U.S.C. 80a-24(f)(4).

* * * * *

40. Amend §270.8b-16 by revising paragraphs (b)(2) and (4) and adding paragraph (e) to read as follows:

§270.8b-16 Amendments to registration statement.

* * * * *

(b) * * *

(2) The company's investment objectives and policies (described in Item 8.2 of Form N-2), and any material changes to same that have not been approved by shareholders;

* * * * *

(4) The principal risk factors associated with investment in the company (described in Item 8.3 of Form N-2), and any material changes to same; and

* * * * *

(e) The changes required to be disclosed by paragraphs (b)(2) through (5) of this section must be described in enough detail to allow investors to understand each change and how it may

affect the fund. Such disclosures must be prefaced with the following legend: “The following information [in this annual report] is a summary of certain changes since [date]. This information may not reflect all of the changes that have occurred since you purchased [this fund].”

41. Effective August 1, 2021, amend §270.23c-3 by adding paragraph (e) to read as follows:

§270.23c-3 Repurchase offers by closed-end companies.

* * * * *

(e) *Registration of an indefinite amount of securities.* A company that makes repurchase offers pursuant to paragraph (b) of this section shall be deemed to have registered an indefinite amount of securities pursuant to Section 24(f) of the Act (15 U.S.C. 80a-24(f)) upon the effective date of its registration statement.

42. Effective August 1, 2021, amend §270.24f-2 by revising the first sentence of paragraph (a) to read as follows:

§270.24f-2 Registration under the Securities Act of 1933 of certain investment company securities.

(a) *General.* Any face-amount certificate company, open-end management company, closed-end management company that makes periodic repurchase offers pursuant to §270.23c-3(b), or unit investment trust (“issuer”) that is deemed to have registered an indefinite amount of securities pursuant to Section 24(f) of the Act (15 U.S.C. 80a-24(f)) must not later than 90 days after the end of any fiscal year during which it has publicly offered such securities, file Form 24F-2 (17 CFR 274.24) with the Commission. * * *

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

43. The authority citation for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a-8, 80a-24, 80a-26, 80a-29, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

Section 274.128 is also issued under 15 U.S.C. 78j-1, 7202, 7233, 7241, 7264, and 7265; and 18 U.S.C. 1350.

44. Revise Form N-2 (referenced in §§239.14 and 274.11a-1) to read as follows:

Note: The text of Form N-2 does not, and this amendment will not, appear in the *Code of Federal Regulations*.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549**

FORM N-2

Check appropriate box or boxes

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Pre-Effective Amendment No. _____

Post-Effective Amendment No. _____

and/or

REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

Amendment No. _____

Registrant Exact Name as Specified in Charter

Address of Principal Executive Offices (Number, Street, City, State, Zip Code)

Registrant's Telephone Number, including Area Code

Name and Address (Number, Street, City, State, Zip Code) of Agent for Service

Approximate Date of Commencement of Proposed Public Offering

Check box if the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans.

Check box if any securities being registered on this Form will be offered on a delayed or continuous basis in reliance on Rule 415 under the Securities Act of 1933 ("Securities Act"), other than securities offered in connection with a dividend reinvestment plan.

Check box if this Form is a registration statement pursuant to General Instruction A.2 or a post-effective amendment thereto.

Check box if this Form is a registration statement pursuant to General Instruction B or a post-effective amendment thereto that will become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act.

Check box if this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction B to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act.

It is proposed that this filing will become effective (check appropriate box)

when declared effective pursuant to Section 8(c) of the Securities Act

The following boxes should only be included and completed if the registrant is making this filing in accordance with Rule 486 under the Securities Act.

immediately upon filing pursuant to paragraph (b)

on (date) pursuant to paragraph (b)

60 days after filing pursuant to paragraph (a)

on (date) pursuant to paragraph (a)

If appropriate, check the following box:

This [post-effective] amendment designates a new effective date for a previously filed [post-effective amendment] [registration statement].

This Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, and the Securities Act registration statement number of the earlier effective registration statement for the same offering is: _____.

This Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, and the Securities Act registration statement number of the earlier effective registration statement for the same offering is: _____.

This Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, and the Securities Act registration statement number of the earlier effective registration statement for the same offering is: _____.

Check each box that appropriately characterizes the Registrant:

Registered Closed-End Fund (closed-end company that is registered under the Investment Company Act of 1940 (“Investment Company Act”).

Business Development Company (closed-end company that intends or has elected to be regulated as a business development company under the Investment Company Act).

Interval Fund (Registered Closed-End Fund or a Business Development Company that makes periodic repurchase offers under Rule 23c-3 under the Investment Company Act).

A.2 Qualified (qualified to register securities pursuant to General Instruction A.2 of this Form).

Well-Known Seasoned Issuer (as defined by Rule 405 under the Securities Act).

Emerging Growth Company (as defined by Rule 12b-2 under the Securities Exchange Act of 1934 (“Exchange Act”).

If an Emerging Growth Company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of Securities Act.

New Registrant (registered or regulated under the Investment Company Act for less than 12 calendar months preceding this filing).

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of Securities Being Registered	Amount Being Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
--------------------------------------	-------------------------	--	---	----------------------------

Instructions.

Complete the Registration Fee table and provide the following (unless payment will be provided using Form 24F-2 [17 CFR 274.24]).

If the registration statement or amendment is filed under only one of the Acts, omit reference to the other Act from the facing sheet. Include the “Approximate Date of Commencement of Proposed Public Offering” and the table showing the calculation of the registration fee only where shares are being registered under the Securities Act.

If the filing fee is calculated pursuant to Rule 457(o) under the Securities Act [17 CFR 230.457], only the title of the class of securities to be registered, the proposed maximum

aggregate offering price for that class of securities, and the amount of registration fee need to appear in the Calculation of Registration Fee table.

If the filing fee is calculated pursuant to Rule 457(r) under the Securities Act, the Calculation of Registration Fee table must state that it registers an unspecified amount of securities of each identified class of securities and must provide that the Registrant is relying on Rule 456(b) [17 CFR 230.456] and Rule 457(r). If the Calculation of Registration Fee table is amended in a post-effective amendment to the registration statement or in a prospectus filed in accordance with Rule 456(b)(1)(ii), the table must specify the aggregate offering price for all classes of securities in the referenced offering or offerings and the applicable registration fee.

Any difference between the dollar amount of securities registered for such offerings and the dollar amount of securities sold may be carried forward on a future registration statement pursuant to Rule 457 under the Securities Act.

Fill in the 811-_____, 814-_____ and 33-_____ blanks only if these filing numbers (for the Investment Company Act registration and/or the Securities Act registration, respectively) have already been assigned by the Securities and Exchange Commission.

Form N-2 is to be used by closed-end management investment companies, except small business investment companies licensed as such by the United States Small Business Administration, to register under the Investment Company Act and to offer their shares under the Securities Act. The Commission has designed Form N-2 to provide investors with information that will assist them in making a decision about investing in an investment company eligible to use the Form. The Commission also may use the information provided on Form N-2 in its regulatory, disclosure review, inspection, and policy making roles.

A Registrant is required to disclose the information specified by Form N-2, and the Commission will make this information public. A Registrant is not required to respond to the collection of information contained in Form N-2 unless the Form displays a currently valid Office of Management and Budget (“OMB”) control number. Please direct comments concerning the accuracy of the information collection burden estimate and any suggestions for reducing the burden to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549. The OMB has reviewed this collection of information under the clearance requirements of 44 U.S.C. 3507.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

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SIGNATURES

GENERAL INSTRUCTIONS

A. Use of Form N-2

1. **General.** Form N-2 is used by all closed-end management investment companies (“Registrant” or “Fund”), except small business investment companies licensed as such by the United States Small Business Administration, to file: (1) an initial registration statement under Section 8(b) of the Investment Company Act and any amendments to the registration statement, including amendments required by Rule 8b-16 under the Investment Company Act [17 CFR 270.8b-16]; (2) a registration statement under the Securities Act and any amendment to it; or (3) any combination of these filings.

2. **Optional Use of Form for Certain Registrants.** A Registrant may elect to file a registration statement pursuant to this General Instruction A.2, including a registration statement used in connection with an offering pursuant to Rule 415(a)(1)(x) under the Securities Act [17 CFR 230.415], if it meets all of the following requirements:

- a. the Registrant meets the requirements of General Instruction I.A. of Form S-3 [17 CFR 239.13];
- b. if the Registrant is registered under the Investment Company Act, it has been registered for a period of at least twelve calendar months immediately preceding the filing of the registration statement on this Form, and has timely filed all reports required to be filed pursuant to Section 30 of the Investment Company Act during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement; and
- c. the registration statement to be filed pursuant to this General Instruction A.2 relates to a transaction specified in General Instruction I.B. or I.C of Form S-3, as applicable, and meets all of the conditions to the transaction specified in the applicable instruction.

A registration statement filed pursuant to this instruction shall specifically incorporate by reference into the prospectus and statement of additional information (“SAI”) all of the materials specified in General Instruction F.3, pursuant to the requirements set forth in that instruction.

A Registrant must indicate that the registration statement is being filed pursuant to this instruction by checking the appropriate box on the facing sheet.

Note to General Instruction A.2. Attention is directed to the General Instructions of Form S-3, including General Instructions II.D, F, and G, which contain general information regarding the preparation and filing of automatic and non-automatic shelf registration statements.

B. Automatic Shelf Offerings by Well-Known Seasoned Issuers

Any Registrant that is a Well-Known Seasoned Issuer as defined in Rule 405 of the Securities Act [17 CFR 230.405] at the most recent eligibility determination date specified in paragraph (2) of that definition may use a registration statement filed under General Instruction A.2 of this Form as an automatic shelf registration statement for registration under the Securities Act of securities offerings, other than pursuant to Rule 415(a)(1)(vii) or (viii) of the Securities Act, only for the transactions that are described in, and consistent with the requirements of, General Instruction I.D. of Form S-3.

Note to General Instruction B. Attention is directed to the General Instructions of Form S-3, including General Instructions II.E, F, G, and IV.B, which contain general information regarding the preparation and filing of automatic shelf registration statements.

C. Registration Fees

Section 6(b) of the Securities Act and Rule 457 thereunder set forth the fee requirements under the Securities Act. Registrants that are required to pay registration fees on an annual net basis pursuant to Rule 24f-2 under the Investment Company Act must provide payment using Form 24F-2.

D. Application of General Rules and Regulations

If the registration statement is being filed under both the Securities and Investment Company Acts or under only the Securities Act, the General Rules and Regulations under the Securities Act, particularly Regulation C, shall apply. If the registration statement is being filed under only the Investment Company Act, the General Rules and Regulations under the Investment Company Act, particularly those under Section 8(b), shall apply.

E. Amendments

1. Paragraph (a) of Rule 8b-16 under the Investment Company Act requires closed-end management investment companies to annually amend the Investment Company Act registration statement. Paragraph (b) of Rule 8b-16 exempts a closed-end management investment company from this requirement if it provides certain information specified by that rule to shareholders in its annual report.

2. If Form N-2 is used to file a registration statement under both the Securities and Investment Company Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

3. Registrants offering securities on a delayed or continuous basis in reliance upon Rule 415 under the Securities Act must provide the undertakings with respect to post-effective amendments required by Item 34 of Form N-2.

4. A post-effective amendment to a registration statement on this Form, or a registration statement filed for the purpose of registering additional shares of common stock for which a registration statement filed on this Form is effective or for the purpose of complying with Rule 415(a)(5) and (a)(6), filed on behalf of a Registrant which makes periodic repurchase offers pursuant to Rule 23c-3 under the Investment Company Act [17 CFR 270.23c-3] or which makes a continuous offering of securities pursuant to Rule 415(a)(1)(ix) under the Securities Act may become effective automatically in accordance with Rule 486 under the Securities Act [17 CFR 230.486], as applicable. In accordance with Rule 429 under the Securities Act [17 CFR 230.429], a Registrant filing a new registration statement for the purpose of registering additional shares of common stock may use a prospectus with respect to the additional shares also in connection with the shares covered by earlier registration statements if such prospectus includes all of the information which would currently be required in a prospectus relating to the securities covered by the earlier statements. The filing fee required by the Securities Act and Rule 457 under the Securities Act shall be paid with respect to the additional shares only.

F. Incorporation by Reference

1. **General Requirements.** All incorporation by reference must comply with the requirements of this Form and the following rules on incorporation by reference: Rule 411 under the Securities Act [17 CFR 230.411] (general rules on incorporation by reference in a prospectus); Rule 303 of Regulation S-T [17 CFR 232.303] (specific requirements for electronically filed documents); and Rule 0-4 [17 CFR 270.0-4], (additional rules on incorporation by reference for investment companies).

2. Specific Requirements for Incorporation by Reference for Registrants Not Relying on General Instruction A.2.

a. A Registrant may not incorporate by reference into a prospectus information that Part A of this Form requires to be included in a prospectus, except as specifically permitted by Part A of this Form or paragraph F.2.d below.

b. A Registrant may incorporate by reference any or all of the SAI into the prospectus (but not to provide any information required by Part A to be included in the prospectus) without delivering the SAI with the prospectus.

c. A Registrant may incorporate by reference into the SAI or its response to Part C, information that Parts B and C require to be included in the Registrant's registration statement.

d. A Registrant may incorporate by reference into the prospectus or the SAI in response to Items 4.1 or 24 of this Form the information contained in Form N-CSR [17 CFR 249.331 and 274.128] or any report to shareholders meeting the requirements of Section 30(e) of the Investment Company Act and Rule 30e-1 [17 CFR 270.30e-1] thereunder (and a Registrant that has elected to be regulated as a business development company may so incorporate into Items 4.1, 4.2, 8.6.c, or 24 of this Form the information contained in its annual report under the Exchange Act), provided:

(1) the material incorporated by reference is prepared in accordance with, and covers the periods specified by, this Form; and

(2) the Registrant states in the prospectus or the SAI, at the place where the information required by Items 4.1, 4.2, 8.6.c., or 24 of this Form would normally appear, that the information is incorporated by reference from a report to shareholders or a report on Form N-CSR or an annual report on Form 10-K [17 CFR 249.310]. (The Registrant also may describe briefly, in either the prospectus, the SAI, or Part C of the registration statement (in response to Item 25.1) those portions of the report to shareholders or report on Form N-CSR or Form 10-K that are not incorporated by reference and are not a part of the registration statement.)

3. Specific Requirements for Incorporation by Reference for Certain Registrants. If a Registrant is filing a registration statement pursuant to General Instruction A.2, the following requirements apply:

a. **Backward Incorporation by Reference.** The documents listed in (1) and (2) below shall be specifically incorporated by reference into the prospectus and SAI by means of a statement to that effect in the prospectus and SAI listing all such documents:

(1) the Registrant's latest annual report filed pursuant to Section 13(a) or Section 15(d) of the Exchange Act that contains financial statements for the Registrant's latest fiscal year for which a Form N-CSR or Form 10-K was required to be filed;

(2) all other reports filed pursuant to Section 13(a) or Section 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in (1) above; and

(3) if capital stock is to be registered and securities of the same class are registered under Section 12 of the Exchange Act, the description of such class of securities which is contained in a registration statement filed under the Exchange Act, including any amendment or reports filed for the purpose of updating such description.

b. **Forward Incorporation by Reference.** The prospectus and SAI shall also state that all documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act, prior to the termination of the offering shall be deemed to be incorporated by reference into the prospectus and SAI.

c. **Use of Information to be Incorporated.** Any information required in the prospectus and SAI in response to Items 3-12 and Items 16-24 of this Form may be included in the prospectus and SAI through documents filed pursuant to Sections 13(a), 14, or 15(d) of the Exchange Act that are incorporated or deemed incorporated by reference into the prospectus and SAI that are part of the registration statement.

Instruction. Attention is directed to Rule 439 under the Securities Act [17 CFR 230.439] regarding consent to use of material incorporated by reference.

4. **Disclosure**

a. The Registrant must make its prospectus, SAI, and any periodic and current reports filed pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference readily available and accessible on a website maintained by or for the Registrant and containing information about the Registrant.

b. The Registrant must state in its prospectus and SAI:

(1) that it will provide to each person, including any beneficial owner, to whom a prospectus or SAI is delivered, a copy of any or all information that has been incorporated by reference into the prospectus or SAI but not delivered with the prospectus or SAI;

(2) that it will provide this information upon written or oral request;

(3) that it will provide this information at no charge;

(4) the name, address, telephone number, and e-mail address, if any, to which the request for this information must be made; and

(5) the Registrant's website address where the prospectus, SAI, and any incorporated information may be accessed.

Instruction. If the Registrant sends any of the information that is incorporated by reference into the prospectus or SAI to security holders, it also must send any exhibits that are specifically incorporated by reference into that information.

c. The Registrant also must:

(1) identify the reports and other information that it files with the SEC; and

(2) state that the SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC and state the address of that site (<http://www.sec.gov>).

G. Documents Composing the Registration Statement or Amendment

1. A registration statement or an amendment to it filed under both the Securities and Investment Company Acts consists of the facing sheet of the Form, Part A, Part B, Part C, required signatures, all other documents filed as a part of the registration statement, and documents or information permitted to be incorporated by reference.

2. A registration statement or amendment to it that is filed under only the Securities Act shall contain all the information and documents specified in paragraph 1 of this Instruction G.

3. A registration statement or an amendment to it that is filed under only the Investment Company Act shall consist of the facing sheet of the Form, responses to all items of Parts A and B except Items 1, 2, 3.2, 4, 5, 6, and 7 of Part A, responses to all items of Part C except Items 25.2.h, 25.2.l, 25.2.n, and 25.2.o, required signatures, and all other documents that are required or which the Registrant may file as part of the registration statement.

H. Preparation of the Registration Statement or Amendment

The following instructions for completing Form N-2 are divided into three parts. Part A relates to the prospectus required by Section 10(a) of the Securities Act. Part B relates to the SAI that must be provided upon request to recipients of the prospectus. Part C relates to other information that is required to be in the registration statement.

I. Interactive Data Files

1. An Interactive Data File as defined in Rule 11 of Regulation S-T [17 CFR 232.11] is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T [17 CFR 232.405] for any registration statement or post-effective amendment thereto filed on Form N-2 that contains the cover page information specified in Rule 405 of Regulation S-T. The Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which it relates that is submitted on or before the date the registration statement or post-effective amendment that contains the related information becomes effective.

2. An Interactive Data File is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T for any registration statement or post-effective amendment thereto filed on Form N-2 or for any form of prospectus filed pursuant to Rule 424 under the Securities Act [17 CFR 230.424] that includes or amends information provided in response to Items 3.1, 4.3, 8.2.b, 8.2.d, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a-d, 10.2.a-c, 10.2.e, 10.3, or 10.5. The Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which it relates, on or before the date the registration statement or post-effective amendment that contains the related information becomes effective. Interactive Data Files must be submitted with the filing made pursuant to Rule 424.

3. If a Registrant is filing a registration statement pursuant to General Instruction A.2, an Interactive Data File is required to be submitted to the Commission in the manner

provided by Rule 405 of Regulation S-T for any of the documents listed in General Instruction F.3.(a) or General Instruction F.3.(b) that include or amend information provided in response to Items 3.1, 4.3, 8.2.b, 8.2.d, 8.3.a, 8.3.b, 8.5.b, 8.5.c, 8.5.e, 10.1.a-d, 10.2.a-c, 10.2.e, 10.3, or 10.5. The Interactive Data File must be submitted with the filing of the document(s) listed in General Instruction F.3.(a) or General Instruction F.3.(b).

4. The Interactive Data Files must be submitted in accordance with the specifications in the EDGAR Filer Manual, and must be submitted in such a manner that—for any information that does not relate to all of the classes of a Registrant—will permit each class of the Registrant to be separately identified.

J. Registration of Additional Securities

With respect to the registration of additional securities for an offering pursuant to Rule 462(b) under the Securities Act [17 CFR 230.462], the Registrant may file a registration statement consisting only of the following: the facing page; a statement that the contents of the earlier registration statement, identified by file number, are incorporated by reference; required opinions and consents; the signature page; and any price-related information omitted from the earlier registration statement in reliance on Rule 430A [17 CFR 230.430A] that the Registrant chooses to include in the new registration statement. The information contained in such a Rule 462(b) registration statement shall be deemed to be part of the earlier registration statement as of the date of effectiveness of the Rule 462(b) registration statement. Any opinion or consent required in such a registration statement may be incorporated by reference from the earlier registration statement with respect to the offering, if: (i) such opinion or consent expressly provides for such incorporation; and (ii) such opinion relates to the securities registered pursuant to Rule 462(b). See Rules 411(c), 439(b), and 483(c) under the Securities Act [17 CFR 230.483].

Part A: The Prospectus

The purpose of the prospectus is to provide essential information about the Registrant in a way that will help investors make informed decisions about whether to purchase the securities being offered. THE INFORMATION IN THE PROSPECTUS SHOULD BE CLEAR, CONCISE, AND UNDERSTANDABLE. AVOID THE USE OF TECHNICAL OR LEGAL TERMS, COMPLEX LANGUAGE, OR EXCESSIVE DETAIL.

Responses to the items of Part A should be as simple and direct as possible and should include only information needed to understand the fundamental characteristics of the Registrant. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself. No response is required for inapplicable items.

Part B: Statement of Additional Information

The items in Part B call for additional information about the Registrant that may be of interest to some investors. Part B also allows the Registrant to augment discussions of matters described in the prospectus with additional information the Registrant believes may be of interest

to some investors. If information is included in the prospectus, it need not be repeated in the SAI, and a Registrant need not prepare a SAI or refer to it in the prospectus (or provide the undertaking required by Item 34.7 as to the SAI) if all of the information required to be in the SAI is included in the prospectus. A Registrant placing information in Part B should not repeat information that is in the prospectus, except where necessary to make Part B understandable.

Information in the SAI need not be included in the prospectus or be sent to investors with the prospectus provided that the cover page of the prospectus states that the SAI is available upon oral or written request and without charge, and includes a toll-free telephone number and e-mail address, if any, for use by prospective investors to request the SAI. If the request is made prior to delivery of a confirmation with respect to a security offered by the prospectus, the SAI must be sent in a manner reasonably calculated for it to arrive prior to the confirmation. The SAI may be sent to the address to which the prospectus was delivered, unless the requester provides an alternate address for delivery of the SAI.

General Instructions for Parts A and B

1. The information in the prospectus and the SAI should be organized to make it easy to understand the organization and operation of the Registrant. The information need not be in any particular order, with the exception that Items 1, 2, 3, and 4 must appear in order in the prospectus and may not be preceded or separated by any other information.

2. The prospectus or the SAI may contain more information than called for by this Form, provided the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of required information.

3. The requirements for dating the prospectus apply equally to dating the SAI for purposes of Rule 423 under the Securities Act [17 CFR 230.423]. The SAI should be made available at the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the Securities Act [17 CFR 230.430 and 230.460].

4. The prospectus should not be presented in fold-out or road-map type fashion.

5. Instructions for charts, graphs, and sales literature:

(a) A registration statement may include any chart, graph, or table that is not misleading; however, only the fee table and the table of contents (required by Rule 481(c) under the Securities Act [17 CFR 230.481]) may precede the financial highlights specified in Item 4.

(b) If "sales literature" is included in the prospectus, (1) it should not significantly lengthen the prospectus nor obscure essential disclosure, and (2) members of the Financial Industry Regulatory Authority ("FINRA") are not relieved of the filing and other FINRA requirements for investment company sales literature. (*See* Securities Act Release No. 5359, Jan. 26, 1973 [38 FR 7220 (Mar. 19, 1973)].)

Part A – INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Outside Front Cover

1. The outside front cover must contain the following information:
 - a. the Registrant's name;
 - b. identification of the type of Registrant (*e.g.*, bond fund, balanced fund, business development company, etc.) or a brief statement of the Registrant's investment objective(s);
 - c. the title and amount of securities offered and a brief description of such securities (unless not necessary to indicate the material terms of the securities, as in the case of an issue of common stock with full voting rights and the dividend and liquidation rights usually associated with common stock);
 - d. a statement that (A) the prospectus sets forth concisely the information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; and (C) additional information about the Registrant has been filed with the Commission and is available upon written or oral request and without charge (this statement should explain how to obtain the SAI, and whether any of it has been incorporated by reference into the prospectus). This statement should also explain how to obtain the Registrant's annual and semi-annual reports to shareholders. Provide a toll-free (or collect) telephone number for investors to call, and e-mail address, if any, to request the Registrant's SAI; annual report; semi-annual report; or other information about the Registrant; and to make shareholder inquiries. Also state whether the Registrant makes available its SAI and annual and semi-annual reports, free of charge, on or through the Registrant's website at a specified internet address. If the Registrant does not make its SAI and shareholder reports available in this manner, disclose the reasons why it does not do so (including, where applicable, that the Registrant does not have an internet website). Also include the information that the Commission maintains a website (<http://www.sec.gov>) that contains the SAI, material incorporated by reference, and other information regarding Registrants;
 - e. the date of the prospectus and the date of the Statement of Additional Information;
 - f. if any of the securities being registered are to be offered for the account of shareholders, a statement to that effect;
 - g. information in substantially the tabular form indicated as to all securities being registered that are to be offered for cash (estimate, if necessary):

Price to Public	Sales Load	Proceeds to Registrant or Other Persons
Per Share		
Total		

Instructions.

1. If it is impracticable to state the price to the public, briefly explain how the price will be determined (*e.g.*, by reference to net asset value). If the securities will be offered at the market, indicate the market involved and the market price as of the latest practicable date.

2. The term “sales load” is defined in Section 2(a)(35) of the Investment Company Act. Subject to Instruction 3, only include the portion of the sales load that consists of underwriting discounts and commissions, and include any commissions paid by selling shareholders (the term “commissions” is defined in paragraph 17 of Schedule A of the Securities Act [15 U.S.C. 77aa(17)]). Commissions paid by other persons and other consideration to underwriters shall be noted in the second column and briefly described in a footnote.

3. Include in the table as sales load amounts borrowed to pay underwriting discounts and commissions or any other offering costs that are required to be repaid in less than one year. Exclude from the table, but include in a note thereto, the amount of funds borrowed to pay such costs that are required to be repaid in more than one year, and provide a cross-reference to the prospectus discussion of the borrowed amounts and the effect of repayment on fund assets available for investment.

4. Where an underwriter has received an over-allotment option, present maximum-minimum information in the price table or in a note thereto, based on the purchase of all or none of the shares subject to the option. The terms of the option may be described briefly in response to Item 5 rather than on the prospectus cover page.

5. If the securities are to be offered on a best efforts basis, set forth the termination

date of the offering, any minimum required purchase, and any arrangements to place the funds received in an escrow, trust, or similar arrangement. If no arrangements have been made, so state. Set forth the following table in lieu of the “Total” information called for by the required table.

Price to Public	Sales Load	Proceeds to Registrant or Other Persons
Total Minimum		
Total Maximum		

6. Set forth in a note to the proceeds column the total of other expenses of issuance and distribution called for by Item 27, stated separately for the Registrant and for the selling shareholders, if any.

h. the statements required by paragraphs (1) and (2) of Rule 481(b) under the Securities Act;

i. if the Registrant's securities have no history of public trading, a prominent statement to that effect and a statement describing the tendency of closed-end fund shares to trade frequently at a discount from net asset value and the risk of loss this creates for investors purchasing shares in the initial public offering;

Instruction. A Registrant may omit the discount statement if it believes that, as a result of its investment or other policies, its capital structure, or the markets in which its shares trade, its shares are unlikely to trade at a discount from net asset value.

j. a cross-reference to the prospectus discussion of any factors that make the offering speculative or one of high risk, printed in bold face common type at least as large as ten point modern type and at least two points leaded; and

Instruction. No cross-reference is required where the risks associated with securities in which the Registrant is authorized to invest are only the basic risks of investing in securities (e.g., the risk that the value of portfolio securities may fluctuate depending upon market conditions, or the risks that debt securities may be prepaid and the proceeds from the prepayments invested in debt instruments with lower interest rates). Include the cross-reference if the nature of the Registrant's investment objectives, investment policies, capital structure, or the trading markets for the Registrant's securities increase the likelihood that an investor could lose a significant portion of his or her investment.

k. any other information required by Commission rules or by any other governmental authority having jurisdiction over the Registrant or the issuance of its securities.

l. A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

2. The cover page may include other information if it does not, by its nature, quantity, or manner of presentation impede understanding of the required information.

Item 2. Cover Pages; Other Offering Information

1. Disclose whether any national securities exchange or the Nasdaq Stock Market lists the securities offered, naming the particular market(s), and identify the trading symbol(s) for those securities on the inside front or outside back cover page of the prospectus, unless the information appears on the front cover page.

2. Provide the information required by paragraph (d) of Rule 481 under the Securities Act in an appropriate place in the prospectus.

3. Provide the information required by paragraph (e) of Rule 481 under the Securities Act on the outside back cover page of the prospectus.

Item 3. Fee Table and Synopsis

1. If the prospectus offers common stock of the Registrant, include information about the costs and expenses that the investor will bear directly or indirectly, using the captions and tabular format illustrated below:

Shareholder Transaction Expenses

Sales Load (as a percentage of offering price) _____ %

Dividend Reinvestment and Cash Purchase Plan Fees	_____
Annual Expenses (as a percentage of net assets attributable to common shares)	
Management Fees	_____ %
Interest Payments on Borrowed Funds	_____ %
Other expenses	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
Total Annual Expenses	_____ %

Example	1 year	3 years	5 years	10 years
You would pay the following expenses on a \$1,000 investment, assuming a 5% annual return:	\$ _____	\$ _____	\$ _____	\$ _____

Instructions.

General Instructions

1. Immediately after the table, provide a brief narrative explaining that the purpose of the table is to assist the investor in understanding the various costs and expenses that an investor in the fund will bear directly or indirectly. Include, where appropriate, cross-references to the relevant sections of the prospectus for more complete descriptions of the various costs and expenses.

2. Any caption not applicable to the Registrant may be omitted from the table.

3. Round all dollar figures to the nearest dollar and all percentages to the nearest hundredth of one percent.

Shareholder Transaction Expenses

4. "Dividend Reinvestment and Cash Purchase Plan Fees" include all fees (except

brokerage commissions) that are charged to participating shareholder accounts. The basis on which such fees are imposed should be described briefly in a note to the table.

5. If the Registrant (or any other party under an agreement with the Registrant) charges any other transaction fee, add another caption describing it, and list the maximum amount of the fee or basis on which the fee is deducted. Underwriters' compensation that is paid with the proceeds of debt that is not to be repaid within one year need not be identified as sales load, but should be set forth as a shareholder transaction expense with a brief narrative following the table explaining the nature of such payments.

Annual Expenses

6. State the basis on which payments will be made. "Other Expenses" should be estimated and stated (after any expense reimbursement or waiver) as a percentage of net asset value attributable to common shares. State in the narrative following the table that "Other Expenses" are based on estimated amounts for the current fiscal year.

7. *a.* "Management Fees" include investment advisory fees (including any component thereof based on the performance of the Registrant), any other management fees payable to the investment adviser or its affiliates, and administrative fees payable to the investment adviser or its affiliates not included as "Other Expenses," and any expenses incurred within the Registrant's own organization in connection with the research, selection, and supervision of investments. Where management fees are "tiered" or based on a "sliding scale," they should be calculated based on the fund's asset size after giving effect to the anticipated net proceeds of the present offering. In the case of a performance fee arrangement, assume the base fee. With respect to a best-efforts offering with breakpoints, assume the maximum fee will be payable.

b. In lieu of the information about management fees required by Item 3.1, a business development company with a fee structure that is not based solely on the aggregate amount of assets under management should provide disclosure concerning the fee arrangement to allow investors to assess its impact on the Registrant's expenses; a business development company may use any appropriate expense categories and may include items that may not, for accounting purposes, be treated as expenses. A business development

company with special fee arrangements should provide a cross-reference, where applicable, to the discussion in Item 9.1.a of special management compensation plans.

8. “Interest Payments on Borrowed Funds” include all interest paid in connection with outstanding loans (including interest paid on funds borrowed to pay underwriting expenses), bonds, or other forms of debt. Show interest expenses as a percentage of net assets attributable to common shares and not the face amount of debt.

9. “Other Expenses” include all expenses (except fees and expenses reported in other items in the table) that are deducted from the Registrant’s assets and will be reflected as expenses in the Registrant’s statement of operations (including increases resulting from complying with paragraph 2(g) of Rule 6-07 [17 CFR 210.6-07] of Regulation S-X).

10. a. If the Registrant invests, or intends to invest based upon the anticipated net proceeds of the present offering, in shares of one or more “Acquired Funds,” add a subcaption to the “Annual Expenses” portion of the table directly above the subcaption titled “Total Annual Expenses.” Title the additional subcaption: “Acquired Fund Fees and Expenses.” Disclose in the subcaption fees and expenses incurred indirectly by the Registrant as a result of investment in shares of one or more Acquired Funds. For purposes of this Item, an “Acquired Fund” means any company in which the Registrant invests or intends to invest (A) that is an investment company or (B) that would be an investment company under Section 3(a) of the Investment Company Act but for the exceptions to that definition provided for in Sections 3(c)(1) and 3(c)(7) of the Investment Company Act. If a Registrant uses another term in response to other requirements of this Form to refer to Acquired Funds, it may include that term in parentheses following the subcaption title. In the event the fees and expenses incurred indirectly by the Registrant as a result of investment in shares of one or more Acquired Funds do not exceed 0.01 percent (one

basis point) of average net assets of the Registrant, the Registrant may include these fees and expenses under the subcaption “Other Expenses” in lieu of this disclosure requirement.

- b.* Determine the “Acquired Fund Fees and Expenses” according to the following formula:

$$\text{AFFE} = \frac{[(F1/FY)*AI1* D1]+[(F2/FY)*AI2* D2]+[(F3/FY)*AI3* D3] + \text{Transaction Fees} + \text{Incentive Allocations}}{\text{Average Net Assets of the Registrant}}$$

Where:

AFFE	Acquired Fund fees and expenses;
F1, F2, F3, . . .	Total annual operating expense ratio for each Acquired Fund;
FY	Number of days in the relevant fiscal year;
AI1, AI2, AI3, . . .	Average invested balance in each Acquired Fund;
D1, D2, D3, . . .	Number of days invested in each Acquired Fund;
“Transaction Fees”	The total amount of sales loads, redemption fees, or other transaction fees paid by the Registrant in connection with acquiring or disposing of shares in any Acquired Funds during the most recent fiscal year; and
“Incentive Allocations”	Any allocation of capital from the Acquiring Fund to the adviser of the Acquired Fund (or its affiliate) based on a percentage of the Acquiring Fund’s income, capital gains and/or appreciation in the Acquired Fund.

c. Calculate the average net assets of the Registrant for the most recent fiscal year, as provided in Item 4.1 (*see* Instruction 15 to Item 4.1), and include the anticipated net proceeds of the present offering.

d. The total annual operating expense ratio used for purposes of this calculation (F1) is the annualized ratio of operating expenses to average net assets for the Acquired Fund's most

recent fiscal period as disclosed in the Acquired Fund's most recent shareholder report. If the ratio of expenses to average net assets is not included in the most recent shareholder report or the Acquired Fund is a newly formed fund that has not provided a shareholder report, then the ratio of expenses to average net assets of the Acquired Fund is the ratio of total annual operating expenses to average annual net assets of the Acquired Fund for its most recent fiscal period as disclosed in the most recent communication from the Acquired Fund to the Registrant. If the Registrant has a written fee agreement with the Acquired Fund that would affect the ratio of expenses to average net assets as disclosed in the Acquired Fund's most recent shareholder report, the Registrant should determine the ratio of expenses to average net assets for the Acquired Fund's most recent fiscal period using the written fee agreement. For purposes of this instruction: (i) Acquired Fund expenses include increases resulting from brokerage service and expense offset arrangements and reductions resulting from fee waivers or reimbursements by the Acquired Funds' investment advisers or sponsors; and (ii) Acquired Fund expenses do not include any expenses (*i.e.*, performance fees) that are calculated solely upon the realization and/or distribution of gains, or the sum of the realization and/or distribution of gains and unrealized appreciation of assets distributed in-kind. If an Acquired Fund has no operating history, include in the Acquired Funds' expenses any fees payable to the Acquired Fund's investment adviser or its affiliates stated in the Acquired Fund's registration statement, offering memorandum or other similar communication without giving effect to any performance.

e. If a Registrant has made investments in the most recent fiscal year, to determine the average invested balance (AII), the numerator is the sum of the amount initially invested in an Acquired Fund during the most recent fiscal year (if the investment was held at the end of the previous fiscal year, use the amount invested as of the end of the previous fiscal year) and the

amounts invested in the Acquired Fund no less frequently than monthly during the period the investment is held by the Registrant (if the investment was held through the end of the fiscal year, use each month-end through and including the fiscal year-end). Divide the numerator by the number of measurement points included in the calculation of the numerator (*i.e.*, if an investment is made during the fiscal year and held for 3 succeeding months, the denominator would be 4).

f. For investments based upon the anticipated net proceeds from the present offering, base the “Acquired Fund Fees and Expenses” on: (i) assumptions about specific funds in which the Registrant expects to invest, (ii) estimates of the amount of assets the Registrant expects to invest in each of those Acquired Funds, and (iii) an assumption that the investment was held for all of the Registrant's most recent fiscal year and was subject to the Acquired Funds’ fees and expenses for that year. Disclose in a footnote to the table that Acquired Fund fees and expenses are based on estimated amounts for the current fiscal year.

g. If an Acquired Fund charges an Incentive Allocation or any other fee based on income, capital gains and/or appreciation (*i.e.*, performance fee), the Registrant must include a footnote to the “Acquired Fund Fees and Expenses” subcaption that:

(1) discloses the typical Incentive Allocation or such other fee (expressed as a percentage) to be paid to the investment advisers of the Acquired Funds (or an affiliate);

(2) discloses that Acquired Funds’ fees and expenses are based on historic fees and expenses; and

(3) states that future Acquired Funds’ fees and expenses may be substantially higher

or lower because certain fees are based on the performance of the Acquired Funds, which may fluctuate over time.

h. If the Registrant is a Feeder Fund, reflect the aggregate expenses of the Feeder Fund and the Master Fund in the “Acquired Fund Fees and Expenses.” The aggregate expenses of the Master-Feeder Fund must include the fees and expenses incurred indirectly by the Feeder Fund as a result of the Master Fund’s investment in shares of one or more companies (A) that are investment companies or (B) that would be investment companies under Section 3(a) of the Investment Company Act but for the exceptions to that definition provided for in Sections 3(c)(1) and 3(c)(7) of the Investment Company Act. For purposes of this instruction, a “Master-Feeder Fund” means a two-tiered arrangement in which one or more investment companies registered under the Investment Company Act (each a “Feeder Fund”) holds shares of a single management investment company registered under the Investment Company Act (the “Master Fund”) in accordance with Section 12(d)(1)(E) of the Investment Company Act.

i. The Registrant may clarify in a footnote to the fee table that the total annual expenses item under Item 3.1 is different from the ratio of expenses to average net assets given in response to Item 4.1, which reflects the operating expenses of the Registrant and does not include Acquired Fund fees and expenses.

Example

II. For purposes of the Example in the table:

a. assume that the rates listed under “Annual Expenses” remain the same each year, except to reduce annual expenses to reflect the scheduled maturity of outstanding debt or the completion of organization expense amortization;

- b. assume reinvestment of all dividends and distributions at net asset value;
- c. reflect all recurring and nonrecurring fees including underwriting discounts and commissions; and
- d. prominently disclose that the Example should not be considered a representation of future expenses and that actual expenses may be greater or lesser than those shown.

2. Include a synopsis of information contained in the prospectus when the prospectus is long or complex. Normally, a synopsis should not be provided where the prospectus is twelve or fewer printed pages.

Instruction. The synopsis should provide a clear and concise description of the key features of the offering and the Registrant, with cross-references to relevant disclosures elsewhere in the prospectus or Statement of Additional Information.

3. In the case of a business development company, include the information required by Item 101(e) of Regulation S-K [17 CFR 229.101] (concerning reports and other information filed with the Commission).

Item 4. Financial Highlights

1. **General.** Furnish the following information for the Registrant, or for the Registrant and its subsidiaries, consolidated as prescribed in Rule 6-03 of Regulation S-X [17 CFR 210.6-03]:

Financial Highlights

Per Share Operating Performance

- a. Net Asset Value, Beginning of Period
 - (1) Net Investment Income
 - (2) Net Gains or Losses on Securities (both realized and unrealized)

- b. Total From Investment Operations
- c. Less Distributions
 - (1) Dividends (from net investment income)
 - (A) To Preferred Shareholders
 - (B) To Common Shareholders
 - (2) Distributions (from capital gains)
 - (A) To Preferred Shareholders
 - (B) To Common Shareholders
 - (3) Returns of Capital
 - (A) To Preferred Shareholders
 - (B) To Common Shareholders
- d. Total Distributions
- e. Net Asset Value, End of Period
- f. Per Share Market Value, End of Period
- g. Total Investment Return

Ratios/Supplemental Data

- h. Net Assets, End of Period
- i. Ratio of Expenses to Average Net Assets
- j. Ratio of Net Income to Average Net Assets
- k. Portfolio Turnover Rate

Instructions.

General Instructions

1. [Removed and reserved.]

2. Briefly explain the nature of the information contained in the table and its source.

The auditor's report as to the financial highlights need not be included in the prospectus. Note that the auditor's report is contained elsewhere in the registration statement, specify its location, and state that it can be obtained by shareholders.

3. Present the information in comparative columns for each of the last ten fiscal years of the Registrant (or for the life of the Registrant and its immediate predecessors, if less), but only for periods subsequent to the effective date of the Registrant's first Securities Act registration statement. In addition, present the information for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities. Where the period for which the Registrant provides financial highlights is less than a full fiscal year, the ratios set forth in the table may be annualized but the fact of this annualization must be disclosed in a note to the table.

4. List per share amounts at least to the nearest cent. If the offering price is computed in tenths of a cent or more, state the amounts on the table in tenths of a cent. Present all information using a consistent number of decimal places.

5. Provide all information in the table, including distributions to preferred shareholders, on a common share equivalent basis.

6. Make, and indicate in a note, appropriate adjustments to reflect any stock split or stock dividend during the period.

7. If the investment adviser has been changed during the period covered by this Item, indicate the date(s) of the change(s) in a note.

8. The financial highlights for at least the latest five fiscal years must be audited and must so state.

Per Share Operating Performance

9. Derive the amount for caption a(1) by adding (deducting) the increase (decrease) per share in undistributed net investment income for the period to (from) dividends from net investment income per share for the period. The increase (decrease) may be derived by comparing the per share figures obtained by dividing undistributed net investment income at the beginning and end of the period by the number of shares outstanding on those dates. Other methods may be acceptable but should be explained briefly in a note to the table.

10. The amount shown at caption a(2) is the balancing figure derived from the other figures in the statement. The amount shown at this caption for a share outstanding throughout the year may not agree with the change in the aggregate gains and losses in the portfolio securities for the year because of the timing of sales and repurchases of the Registrant's shares in relation to fluctuating market values for the portfolio.

11. For any distributions made from sources other than net investment income and capital gains, state the per share amounts thereof separately at caption c(3) and note the nature of the distributions.

12. In caption e, use the net asset value for the end of each period for which information is being provided. If the Registrant has not been in operation for a full fiscal year,

state its net asset value immediately after the closing of its first public offering in a note to the caption.

Total Investment Return

13. When calculating “total investment return” for caption g:
 - a. assume a purchase of common stock at the current market price on the first day and a sale at the current market price on the last day of each period reported on the table;
 - b. note that the total investment return does not reflect sales load; and
 - c. assume reinvestment of dividends and distributions at prices obtained by the Registrant’s dividend reinvestment plan or, if there is no plan, at the lower of the per share net asset value or the closing market price of the Registrant’s shares on the dividend/distribution date.
14. A Registrant also may include, as a separate caption, total return based on per share net asset value, provided the Registrant briefly explains in a note the differences between this calculation and the calculation required by caption g.

Ratios and Supplemental Data

15. Compute “average net assets” for captions i and j based on the value of net assets determined no less frequently than the end of each month. Indicate in a note that the expense ratio and net investment income ratio do not reflect the effect of dividend payments to preferred shareholders.
16. Compute the “ratio of expenses to average net assets” using the amount of expenses shown in the Registrant’s statement of operations for the relevant fiscal year, including increases resulting from complying with paragraph 2(g) of Rule 6-07 of Regulation S-X, and including reductions resulting from complying with paragraphs 2(a) and (f) of Rule 6-07 regarding fee waivers and reimbursements. If a change in the methodology for determining the ratio of expenses to average net assets results from applying paragraph 2(g) of Rule 6-07, explain in a note that the ratio reflects fees paid with brokerage commissions and fees reduced in connection with specific agreements only for fiscal years ending after September 1, 1995.
17. Compute portfolio turnover rate as follows:
 - a. Divide (A) the lesser of purchases or sales of portfolio securities for the fiscal year by (B) the monthly average of the value of portfolio securities owned by the Registrant during the fiscal year. Calculate the monthly average by totaling the values of portfolio securities

as of the beginning and end of the first month of the fiscal year and as of the end of each of the succeeding eleven months and dividing the sum by 13.

b. Exclude from both the numerator and denominator all securities, including options, whose maturity or expiration date at the time of acquisition was one year or less. Include all long-term securities, including U.S. Government securities. Purchases include cash paid upon conversion of one portfolio security into another and the cost of rights or warrants. Sales include net proceeds of the sale of rights or warrants and net proceeds of portfolio securities that have been called or for which payment has been made through redemption or maturity.

c. If during the fiscal year the Registrant acquired the assets of another investment company or of a personal holding company in exchange for its own shares, exclude from purchases the value of securities so acquired, and, from sales, all sales of the securities made following a purchase-of-assets transaction to realign the Registrant's portfolio. Appropriately adjust the denominator of the portfolio turnover computation, and disclose the exclusions and adjustments.

d. Include in purchases and sales short sales that the Registrant intends to maintain for more than one year and put and call options with expiration dates more than one year from the date of acquisition. Include proceeds from a short sale in the value of portfolio securities sold during the period; include the cost of covering a short sale in the value of portfolio securities purchased during the period. Include premiums paid to purchase options in the value of portfolio securities purchased during the reporting period; include premiums received from the sale of options in the value of portfolio securities sold during the period.

2. **Business Development Companies.** If the Registrant is regulated as a business development company under the Investment Company Act, furnish in a separate section the information required by Items 301, 302, and 303 of Regulation S-K.

3. **Senior Securities.** Furnish the following information as of the end of the last ten fiscal years for each class of senior securities (including bank loans) of the Registrant. If consolidated statements were prepared as of any of the dates specified, furnish the information on a consolidated basis:

(1)	(2)	(3)	(4)	(5)
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Year	Total Amount Outstanding Exclusive of Treasury Securities	Asset Coverage Per Unit	Involuntary Liquidating Preference Per Unit	Average Market Value Per Unit (Exclude Bank Loans)
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Instructions.

1. Instructions 2, 3, and 8 to Item 4.1 also apply to this sub-item.
2. Use the method described in Section 18(h) of the Investment Company Act to calculate the asset coverage to be set forth in column (3). However, in lieu of expressing asset coverage in terms of a ratio, as described in Section 18(h), express it for each class of senior securities in terms of dollar amounts per share (in the case of preferred stock) or per \$1,000 of indebtedness (in the case of senior indebtedness).
3. Column (4) need be included only with respect to senior stock.
4. Set forth in a note to the table the method used to determine the averages called for by column (5) (e.g., weighted, monthly, daily, etc.).
5. Briefly explain the terms used in the headings of the columns.

Item 5. Plan of Distribution

Briefly describe how the securities being registered will be distributed. Include the following information:

1. For each principal underwriter distributing the securities being offered set forth:
 - a. its name and principal business address;
 - b. a brief discussion of the nature of any material relationship with the Registrant (other than that of principal underwriter), including any arrangement under which a principal underwriter or its affiliates will perform administrative or custodial services for the Registrant;

Instruction. Any material relationship between the underwriter (or its affiliates) and the investment adviser (or its affiliates) of the Registrant relating to the business or operation of the Registrant constitutes a material relationship of the underwriter with the Registrant.

- c. the amount of securities underwritten; and
- d. the nature of the obligation to distribute the Registrant's securities.

Instruction. All that is required to be disclosed as to the nature of the underwriter's obligation is whether the underwriter will be committed to take and pay for all the securities if

any are taken, or whether it is merely an agency or “best-efforts” arrangement under which the underwriter is required to take and pay for only such securities as it may sell to the public. Conditions precedent to the underwriter’s taking the securities, including “market outs,” need not be described, except in the case of an agency or “best-efforts” arrangement.

2. The price to the public.

Instructions.

1. If it is impracticable to state the price to the public, concisely explain the manner in which the price will be determined, including a description of the valuation procedure used by the Registrant in determining the price. If the securities are to be offered at the market price, or if the offering price is to be determined by a formula related to market price, indicate the market involved and the market price as of the latest practicable date.

2. For restrictions on distributions and repurchases of closed-end company securities, see Section 23 of the Investment Company Act, and Investment Company Act Rel. No. 3187 (Feb. 6, 1961) [26 FR 1275 (Feb. 15, 1961)].

3. Briefly explain the basis for any differences in the price at which securities are offered to the public, as individuals and/or as groups, and to officers, directors and employees of the Registrant, its adviser or underwriter.

3. To the extent not set forth on the cover page of the prospectus, state the amount of the sales load, if any, as a percentage of the public offering price, and concisely describe the commissions to be allowed or paid to (i) underwriters, including all other items that would be deemed by FINRA to constitute underwriting compensation for purposes of FINRA’s rules regarding securities offerings, underwriting and compensation, and (ii) dealers, including all cash, securities, contracts, and/or other considerations to be realized by any dealer in connection with the sale of securities.

Instruction. If any dealers are to act in the capacity of sub-underwriters and are allowed or paid any additional discounts or commission for acting in such capacity, a general statement to that effect will suffice without giving the additional amounts to be sold.

4. If the underwriting agreement provides for indemnification by the Registrant of the underwriters or their controlling persons against any liability arising under the Securities Act or Investment Company Act, briefly describe such indemnification provisions.

5. Provide the identity of any finder and, if applicable, concisely describe the nature of any material relationship between such finder and the Registrant, its officers, directors, principal shareholders, finders or promoters or the principal underwriter(s), or the managing underwriter(s), if any, and, in each case, the affiliates or associates thereof.

6. Indicate the date by which investors must pay for the securities.

7. If the securities are being offered in conjunction with any retirement plan, provide a statement regarding the manner in which further information about the plan can be obtained.

8. If investors' funds will be forwarded to an escrow account, identify the escrow agent, and briefly describe the conditions for release of the funds, whether such funds will accrue interest while in escrow, and the manner in which the monies in such account will be distributed if such conditions are not satisfied, including how accrued interest, if any, will be distributed to investors.

9. If the securities offered by the Registrant are not being listed on a national securities exchange, disclose whether any of the underwriters intends to act as a market maker with respect to such unlisted securities.

10. Briefly outline the plan of distribution of any securities that are to be offered other than through underwriters.

a. If the securities are to be offered through the selling efforts of brokers or dealers, concisely describe the plan of distribution and the terms of any agreement, arrangement, or understanding entered into with broker(s) or dealer(s) prior to the effective date of the registration statement, including volume limitations on sales, parties to the agreement, and the conditions under which the agreement may be terminated. If known, identify the broker(s) or dealer(s) that will participate in the offering, and state the amount to be offered through each.

b. If any of the securities being registered are to be offered other than for cash, describe briefly the general purposes of the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution, and the person(s) responsible for such expenses.

c. If the distribution is to be made under a plan of acquisition, reorganization, readjustment, or succession, provide a statement regarding the general effect of the plan and when it becomes operative. As to any material amount of assets to be acquired under the plan, furnish the information required by Instruction 4 to Item 7.1 below.

Item 6. Selling Shareholders

If any securities being registered are to be offered for the account of shareholders, furnish the information required by Item 507 of Regulation S-K [17 CFR 229.507].

Item 7. Use of Proceeds

1. State the principal purposes for which the net proceeds of the offering are intended to be used and the approximate amount intended to be used for each purpose.

Instructions.

1. If any substantial portion of the proceeds will not be allocated in accordance with the investment objectives and policies of the Registrant, a statement to that effect should be made

together with a statement of the amount involved and an indication of how that amount will be invested.

2. If a material part of the proceeds will be used to discharge indebtedness, state the interest rate and maturity of the indebtedness.

3. If the Registrant intends to incur loans to pay underwriting commissions or any other organizational or offering expenses, disclose this fact and state the name of the lender, the amount of the first installment, the rate of interest, the date on which payments will begin, the dates and amounts of subsequent installments, and the final maturity date. Explain that the interest paid on such borrowing will not be available for investment purposes and will increase the expenses of the fund.

4. If any material part of the proceeds will be used to acquire assets other than in the ordinary course of business, briefly describe the assets, the names of the persons from whom they are to be acquired, the cost of the assets to the Registrant, and how the costs were determined.

2. Disclose how long it is expected to take to fully invest net proceeds in accordance with the Registrant's investment objectives and policies, the reasons for any anticipated lengthy delay in investing the net proceeds, and the consequences of any delay.

Item 8. General Description of the Registrant

Concisely discuss the organization and operation, or proposed operation, of the Registrant. Include the information specified below.

1. **General.** Briefly describe the Registrant, including:

a. the date and form of organization and the name of the state or other jurisdiction under whose laws it is organized; and

b. the classification and subclassification under Sections 4 and 5 of the Investment Company Act.

2. **Investment Objectives and Policies.** Concisely describe the investment objectives and policies of the Registrant that will constitute its principal portfolio emphasis, including the following:

a. if these objectives may be changed without a vote of the holders of a majority of voting securities, a brief statement to that effect;

b. how the Registrant proposes to achieve its objectives, including:

(1) the types of securities in which the Registrant invests or will invest principally;

(2) the identity of any particular industry or group of industries in which the Registrant proposes to concentrate.

Instruction. Concentration, for purposes of this Item, is deemed 25 percent or more of the value of the Registrant's total assets invested or proposed to be invested in a particular industry or group of industries. The policy on concentration should not be inconsistent with the Registrant's name.

c. identify other policies of the Registrant that may not be changed without the vote of a majority of the outstanding voting securities, including those policies that the Registrant deems to be fundamental within the meaning of Section 8(b) of the Investment Company Act; and

d. briefly describe the significant investment practices or techniques that the Registrant employs or intends to employ (such as risk arbitrage, reverse repurchase agreements, forward delivery contracts, when-issued securities, stand-by commitments, options and futures contracts, options on futures contracts, currency transactions, foreign securities, investing for control of management, and/or lending of portfolio securities) that are not described pursuant to subparagraph 2.c above or subparagraph 3 below.

3. **Risk Factors.** Concisely describe the risks associated with an investment in the Registrant, including the following:

a. **General.** Discuss the principal risk factors associated with investment in the Registrant specifically as well as those factors generally associated with investment in a company with investment objectives, investment policies, capital structure, or trading markets similar to the Registrant's.

b. **Effects of Leverage.** If the prospectus offers common stock of the Registrant and the Registrant has outstanding or is offering a class of senior securities as defined in Section 18 of the Investment Company Act, then:

(1) set forth the annual rate of interest or dividend payments on the senior securities;

Instruction. If payments will vary because the interest or dividend rate is variable, provide the initial rate or, if the security is currently outstanding, the current rate.

(2) set forth the annual return that the Registrant's portfolio must experience in order to cover annual interest or dividend payments on senior securities; and

(3) provide a table illustrating the effect on return to a common stockholder of leverage (using senior securities) in the format illustrated below, using the captions provided, and assuming annual returns on the Registrant's portfolio (net of expenses) of minus ten, minus five, zero, five, and ten percent.

(4) The table should be accompanied by a brief narrative explaining that the purpose of the table is to assist the investor in understanding the effects of leverage. Indicate that the figures appearing in the table are hypothetical and that actual returns may be greater or less than those appearing in the table.

Assumed Return on Portfolio (Net of Expenses)	-10%	-5%	0%	5%	10%
Corresponding Return to Common Stockholder	%	%	%	%	%

Instructions.

1. Round all percentages to the nearest hundredth of one percent.
2. A Registrant may assume additional rates of return on its portfolio; however, to the extent a Registrant shows an additional positive rate of return, it must also show an additional negative rate of return of the same magnitude. A Registrant may show the positive rate of return at which the corresponding rate of return to the common stockholder is zero without showing the corresponding negative rate of return.
3. Compute the “corresponding return to common stockholder” as follows: multiply the total amount of fund assets at the beginning of the period by the assumed rate of return; subtract from the resulting product all interest accrued or dividends declared on senior securities that would be made during the year following the offering; and divide the resulting difference by the total amount of fund assets attributable to common stock. If payments will vary because the interest or dividend rate is variable, use the initial rate or, if the security is currently outstanding, the current rate.
4. ***Other Policies.*** Briefly discuss the types of investments that will be made by the Registrant, other than those that will constitute its principal portfolio emphasis (as discussed in Item 8.2 above), and any policies or practices relating to those investments.

Instructions.

1. This discussion should receive less emphasis in the prospectus than that required by Item 8.2 and, if appropriate in light of Instructions 2 and 3 below, may be omitted or limited to the information necessary to identify the type of investment, policy, or practice.
2. Do not discuss a policy that prohibits a particular practice or permits a practice that the Registrant has not used within the past twelve months (or since its initial public offering, if that period is shorter) and does not intend to use in the future.

3. If a policy limits a particular practice so that no more than five percent of the Registrant's net assets are at risk, or if the Registrant has not followed that practice within the last year (or since its initial public offering, if such period is shorter) in such a manner that more than five percent of net assets were at risk and does not intend to follow such practice so as to put more than five percent of net assets at risk, limit the prospectus disclosure about such practice to that necessary to identify the practice. Disclose whether or not the Registrant will provide prior notice to security holders of its intention to commence or expand the use of such practice.

The amount of the Registrant's net assets that are at risk for purposes of determining whether "more than five percent of net assets are at risk" is not limited to the initial amount of the Registrant's assets that are invested in a particular practice, *e.g.*, the purchase price of an option. The amount of net assets at risk is determined by reference to the potential liability or loss that may be incurred by the Registrant in connection with a particular practice.

5. **Share Price Data.** If the prospectus offers common stock or other type of common equity security (collectively "common stock") and if the Registrant's common stock is publicly held, provide the following information:

a. Identify the principal United States market or markets in which the common stock is being traded. Where there is no established public trading market, furnish a statement to that effect.

Instruction. The existence of limited or sporadic quotations should not itself be deemed to constitute an "established public trading market."

b. If the principal United States market for the common stock is an exchange, state the high and low sales prices for the stock for each full quarterly period within the two most recent fiscal years and each full fiscal quarter since the beginning of the current fiscal year, as reported in the consolidated transaction reporting system or, if not so reported, as reported on the principal exchange market for the stock. If the principal United States market for the common stock is not an exchange, state the range of high and low bid information for the common stock for the periods described in the preceding sentence, as regularly quoted in the automated quotation system of a registered securities association or, if not so quoted, the range of reported high and low bid quotations, indicating the source of the quotations.

Instructions.

1. This information should be set forth in tabular form.
2. Indicate, as applicable, that such over-the-counter market quotations reflect inter-dealer prices, without retail mark-up, mark-down, or commission and may not necessarily represent actual transactions.
3. Where there is an absence of an established public trading market, qualify reference to quotations by an appropriate explanation.

4. With respect to each quotation, disclose the net asset value and the discount or premium to net asset value (expressed as a percentage) represented by the quotation.

5. Where the shares of the Registrant trade at their high or low share price for more than one day during the period, the Registrant should provide the discount or premium information for the day on which the premium or discount was greatest.

c. Include share price and corresponding net asset value and premium/discount information as of the latest practicable date.

d. Disclose whether the Registrant's common stock has historically traded for an amount less than, equal to, or exceeding net asset value. Disclose any methods undertaken or to be undertaken by the Registrant that are intended to reduce any discount (such as the repurchase of fund shares, providing for the ability to convert to an open-end investment company, guaranteed distribution plans, etc.), and briefly discuss the effects that these measures have or may have on the Registrant.

e. If the shares of the Registrant have no history of public trading, discuss the tendency of closed-end fund shares to trade frequently at a discount from net asset value and the risk of loss this creates for investors purchasing shares in the initial public offering. If the Registrant has omitted the statement required by Item 1.i, describe the basis for the Registrant's belief that its shares will not trade at a discount from net asset value.

6. **Business Development Companies.** A Registrant that is a business development company should, in addition, provide the following information:

a. **Portfolio Companies.** For each portfolio company in which the Registrant is investing, disclose: (1) the name and address; (2) nature of business; (3) title, class, percentage of class, and value of portfolio company securities held by the Registrant; (4) amount and general terms of all loans to portfolio companies; and (5) the relationship of the portfolio companies to the Registrant.

Instructions.

1. The description of the nature of the business of a portfolio company in which the Registrant is investing may vary according to the extent of the Registrant's investment in the particular portfolio company. The Registrant need only briefly identify the nature of the business of a portfolio company in which the Registrant's investment constitutes less than five percent of the Registrant's assets.

2. In describing the nature of the business of a portfolio company, include matters such as the competitive conditions of the business of the company; its market share; dependence on a single or small number of customers; importance to it of any patents, trademarks, licenses, franchises, or concessions held; key operating personnel; and particular vulnerability to changes in government regulation, interest rates, or technology.

3. In describing the relationship of portfolio companies to the Registrant, include a discussion of the extent to which the Registrant makes available significant managerial assistance to its portfolio companies. Disclose any other material business, professional, or family relationship between the officers and directors of the Registrant and any portfolio company, its officers, directors, and affiliates (as defined in Rule 12b-2 under the Exchange Act [17 CFR 240.12b-2]).

b. **Certain Subsidiaries.** If the Registrant has a wholly-owned small business investment company subsidiary, disclose: (1) whether the subsidiary is regulated as a business development company or investment company under the Investment Company Act; (2) the percentage of the Registrant's assets invested in the subsidiary; and (3) material information about the small business investment company's operations, including the special risks of investing in a portfolio heavily invested in securities of small and developing or financially troubled businesses.

c. **Financial Statements.** Unless the business development company has had less than one fiscal year of operations, provide the financial statements of the Registrant.

Instructions.

1. a. Furnish, in a separate section following the responses to the above items in Part A of the registration statement, the financial statements and schedules required by Regulation S-X [17 CFR 210]. A business development company should comply with the provisions of Regulation S-X generally applicable to registered management investment companies. (See Section 210.3-18 and Sections 210.6-01 through 210.6-10 of Regulation S-X.)

b. A business development company should provide an indication in its Schedule of Investments of those investments that are not qualifying investments under Section 55(a) of the Investment Company Act and, in a footnote, briefly explain the significance of non-qualification.

2. Notwithstanding the requirements of Instruction 1 above, the following statements and schedules required by Regulation S-X may be omitted from Part A and included in Part C of the Registration statement:

a. the statement of any subsidiary that is not a majority-owned subsidiary; and

b. columns C and D of Schedule IV [17 CFR 210.12-03] in support of the most recent balance sheet.

3. A business development company with less than one fiscal year of operations should provide its financial statements in the Statement of Additional Information in response to Item 24.

d. **Prior Operations.** If the Registrant has had an operating history prior to electing to be regulated as a business development company, disclose any anticipated changes in its operations as a result of coming into compliance with Section 55(a) of the Investment Company

Act. This information may be omitted in a prospectus used a sufficient time after election to be regulated as a business development company so that it is no longer material.

e. **Special Risk Factors.** To the extent not disclosed in response to this Item or Item 8.3, concisely describe the special risks of investing in a business development company, including the risks associated with investing in a portfolio of small and developing or financially troubled businesses. (*See* Section 64(b)(1) of the Investment Company Act.)

Item 9. Management

1. **General.** Describe concisely how the business of the Registrant is managed, including:

a. **Board of Directors.** A description of the responsibilities of the board of directors with respect to the management of the Registrant;

Instructions.

1. In responding to this Item, it is sufficient to include a general statement as to the responsibilities of the board of directors under the applicable laws of the Registrant's jurisdiction of organization.

2. A Registrant that has elected to be regulated as a business development company should briefly describe the terms of any special compensation plans available to management.

b. **Investment Advisers.** For each investment adviser of the Registrant:

(1) its name and principal business address, a description of its experience as an investment adviser, and, if the investment adviser is controlled by another person, the name of that person and the general nature of its business;

Instruction. If the investment adviser is subject to more than one level of control, it is sufficient to provide the name of the ultimate control person.

(2) a description of the services provided by the investment adviser;

Instructions.

1. If, in addition to providing investment advice, the investment adviser or persons employed by or associated with the investment adviser are subject to the authority of the board of directors, responsible for overall management of the Registrant's business affairs, it is sufficient to state that fact instead of listing all services provided.

2. A Registrant that has elected to be regulated as a business development company should describe briefly the type of managerial assistance that is or will be provided to the businesses in which it is investing and the qualifications of the investment adviser to render such management assistance.

- (3) a description of its compensation; and

Instructions.

1. State generally what the adviser's fee is or will be as a percentage of average net assets, including any break-point. It is not necessary to include precise details as to how the fee is computed or paid.

2. If the investment advisory fee is paid in some manner other than on the basis of average net assets, briefly describe the basis of payment.

(4) a statement, adjacent to the disclosure required by paragraph 1(b)(3) of this Item, that a discussion regarding the basis for the board of directors approving any investment advisory contract of the Registrant is available in the Registrant's annual or semi-annual report to shareholders, as applicable, and providing the period covered by the relevant annual or semi-annual report.

c. **Portfolio Management.** The name, title, and length of service of the person or persons employed by or associated with the Registrant or an investment adviser of the Registrant who are primarily responsible for the day-to-day management of the Registrant's portfolio ("Portfolio Manager"). Also state each Portfolio Manager's business experience during the past 5 years. Include a statement, adjacent to the foregoing disclosure, that the SAI provides additional information about the Portfolio Manager's(s') compensation, other accounts managed by the Portfolio Manager(s), and the Portfolio Manager's(s') ownership of securities in the Registrant.

Instruction. If a committee, team, or other group of persons associated with the Registrant or an investment adviser of the Registrant is jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, information in response to this Item is required for each member of such committee, team, or other group. For each such member, provide a brief description of the person's role on the committee, team, or other group (*e.g.*, lead member), including a description of any limitations on the person's role and the relationship between the person's role and the roles of other persons who have responsibility for the day-to-day management of the Registrant's portfolio. If more than five persons are jointly and primarily responsible for the day-to-day management of the Registrant's portfolio, the Registrant need only provide information for the five persons with the most significant responsibility for the day-to-day management of the Registrant's portfolio.

d. **Administrators.** The identity of any other person who provides significant administrative or business affairs management services (*e.g.*, an "Administrator" or "Sub-Administrator"), a description of the services provided, and the compensation to be paid;

e. **Custodians.** The name and principal business address of the custodian(s), transfer agent, and dividend paying agent;

f. **Expenses.** The type of expenses for which the Registrant is responsible, and, if organization expenses of the Registrant are to be paid out of its assets, how the expenses will be amortized and the period over which the amortization will occur; and

g. **Affiliated Brokerage.** If the Registrant pays (or will pay) brokerage commissions to any broker that is an (1) affiliated person of the Registrant, (2) affiliated person of such person, or (3) affiliated person of an affiliated person of the Registrant, its investment adviser, or its principal underwriter, a statement to that effect.

2. **Non-resident Managers.** If any non-resident officer, director, underwriter, investment adviser, or expert named in the registration statement has a substantial portion of its assets located outside the United States, identify each person, and state how the enforcement by investors of civil liabilities under the federal securities laws may be affected. This disclosure should indicate whether:

a. investors will be able to effect service of process within the United States upon these persons;

b. investors will be able to enforce, in United States courts, judgments against these persons obtained in such courts predicated upon the civil liability provisions of the federal securities laws;

c. the appropriate foreign courts would enforce judgments of United States courts obtained in actions against these persons predicated upon the civil liability provisions of the federal securities laws; and

d. the appropriate foreign courts would enforce, in original actions, liabilities against these persons predicated solely upon the federal securities laws.

Instruction. If any portions of this disclosure are stated to be based upon an opinion of counsel, name the counsel in the prospectus, and include an appropriate manually signed consent to the use of counsel's name and opinion as an exhibit to the registration statement.

3. **Control Persons.** Identify each person who, as of a specified date no more than 30 days prior to the date of filing the registration statement (or amendment to it), controls the Registrant.

Instruction. For the purposes of this Item, "control" means (1) the beneficial ownership, either directly or through one or more controlled companies, of more than 25 percent of the voting securities of a company; (2) the acknowledgment or assertion by either the controlled or controlling party of the existence of control; or (3) an adjudication under Section 2(a)(9) of the Investment Company Act, which has become final, that control exists.

Item 10. Capital Stock, Long-Term Debt, and Other Securities

1. **Capital Stock.** For each class of capital stock of the Registrant, state the title of the class and briefly describe all of the matters listed in paragraphs 1.a through 1.f that are relevant:

a. concisely discuss the nature and most significant attributes, including, where applicable, (1) dividend rights, policies, or limitations; (2) voting rights; (3) liquidation rights; (4) liability to further calls or to assessments by the Registrant; (5) preemptive rights, conversion rights, redemption provisions, and sinking fund provisions; and (6) any material obligations or potential liability associated with ownership of the security (not including investment risks);

Instructions.

1. A complete legal description of the securities should not be given.

2. If the Registrant has a policy of making distribution or dividend payments at predetermined times and minimum rates, disclosure should include a statement that, if the fund's investments do not generate sufficient income, the fund may be required to liquidate a portion of its portfolio to fund these distributions, and therefore these payments may represent a reduction of the shareholders' principal investment. The tax consequences of such payments also should be described briefly.

b. with respect to preferred stock, (1) state whether there are any restrictions on the Registrant while there is an arrearage in the payment of dividends or sinking fund installments, and, if so, concisely describe the restrictions and (2) briefly describe provisions restricting the declaration of dividends, requiring the maintenance of any ratio or assets, requiring the creation or maintenance of reserves, or permitting or restricting the issuance of additional securities;

c. if the rights of holders of the security may be modified other than by a vote of a majority or more of the shares outstanding, voting as a class, so state, and briefly explain;

d. if rights evidenced by, or the amounts payable with respect to, any class of securities being described are, or may be, materially limited or qualified by the rights of any other authorized class of securities, include sufficient information regarding the other securities to enable investors to understand such rights and limitations;

e. if the Registrant has a dividend reinvestment plan, briefly discuss the material aspects of the plan including, but not limited to, whether the plan is automatic or whether shareholders must affirmatively elect to participate; (2) the method by which shareholders can elect to reinvest stock dividends or, if the plan is automatic, to receive cash dividends; (3) from whom additional information about the plan may be obtained (including a telephone number or address); (4) the method of determining the number of shares that will be distributed in lieu of a cash dividend; (5) the income tax consequences of participation in the plan (*i.e.*, that capital gains and income are realized, although cash is not received by the shareholder); (6) how to terminate participation in the plan and rights upon termination; (7) if applicable, that an investor holding shares that participate in the dividend reinvestment plan in a brokerage account may not be able to transfer the shares to another broker and continue to participate in the dividend reinvestment plan; (8) the type and amount (if known) of fees, commissions, and expenses payable by participants in connection with the plan; and (9) if a cash purchase plan option is available, any minimum or maximum investment required; and

f. briefly describe any provision of the Registrant's charter or bylaws that would have an effect of delaying, deferring, or preventing a change of control of the Registrant and that would operate only with respect to an extraordinary corporate transaction involving the Registrant, such as a merger, reorganization, tender offer, sale or transfer of substantially all of its assets, or liquidation.

Instruction. Provisions and arrangements required by law or imposed by governmental or judicial authority need not be discussed. Provisions or arrangements adopted by the Registrant to effect or further compliance with laws or governmental or judicial mandate must be described where compliance does not require the specific provisions or arrangements adopted.

2. **Long-Term Debt.** If the Registrant is issuing or has outstanding a class of long-term debt, state the title of the debt securities and their principal amount, and concisely describe any of the matters listed in paragraphs 2.a through 2.e that are relevant:

a. provisions concerning maturity, interest, conversion, redemption, amortization, sinking fund, and/or retirement;

b. provisions restricting the declaration of dividends, requiring the maintenance of any ratio or assets, and/or requiring the creation or maintenance of reserves;

c. provisions permitting or restricting the issuance of additional securities, the ability to incur additional debt, the release or substitution of assets securing the issue, and/or the modification of the terms of the securities;

Instruction. A complete legal description of the securities should not be given.

d. for each trustee, its name, the nature of any material relationship it has with the Registrant or any of its affiliates, the percentage of securities necessary to require the trustee to take action, and any indemnification the trustee may require before proceeding against assets of the Registrant; and

e. to the extent not otherwise disclosed in response to this Item, whether the rights evidenced by the long-term debt are, or may be, materially limited or qualified by the rights of any other authorized class of securities, and, if so, include sufficient information regarding such other securities to enable investors to understand such rights and limitations.

3. **General.** Concisely describe the significant attributes of each other class of the Registrant's authorized securities. The description should be comparable to that called for by paragraphs 1 and 2 of this Item. If the securities are subscription warrants or rights, state the title and amount of securities called for and the period during which, and the prices at which, the warrants or rights are exercised.

4. **Taxes.** Concisely describe the tax consequences to investors of an investment in the securities being offered. If the Registrant intends to qualify for treatment under Subchapter M of the Internal Revenue Code of 1986 [26 U.S.C. 851-856], it is sufficient, in the absence of

special circumstances, to state that: (i) the Registrant will distribute all of its net investment income and gains to shareholders and that these distributions are taxable as ordinary income or capital gains; (ii) shareholders may be proportionately liable for taxes on income and gains of the Registrant but shareholders not subject to tax on their income will not be required to pay tax on amounts distributed on them; and (iii) the Registrant will inform shareholders of the amount and nature of the income or gains.

Instructions.

1. The description should not include detailed discussions of applicable law.
2. The Registrant should specifically address whether shareholders will be subject to the alternative minimum tax.

5. **Outstanding Securities.** Furnish the following information, in substantially the tabular form indicated, for each class of authorized securities of the Registrant. The information must be current within 90 days of the filing of this registration statement or amendment to it.

(1)	(2)	(3)	(4)
Title of Class	Amount Authorized	Amount Held by Registrant or for its Account	Amount Outstanding Exclusive of Amount Shown Under (3)

6. **Securities Ratings.** If the prospectus relates to senior securities of the Registrant that have been assigned a rating by a nationally recognized securities rating organization and the rating is disclosed in the prospectus, briefly discuss the significance of the rating, the basis upon which ratings are issued, any conditions or guidelines imposed by the NRSRO for the Registrant to maintain the rating, and whether or not the Registrant intends, or has any contractual obligation, to comply with these conditions or guidelines. In addition, disclose the material terms of any agreement between the Registrant or any of its affiliates and the NRSRO under which the NRSRO provides such rating. If the prospectus relates to securities other than senior securities of the Registrant that have been assigned a rating by a NRSRO, the information required by this paragraph may be provided in the Statement of Additional Information unless the rating criteria will materially affect the investment policies of the Registrant (*e.g.*, if the rating agency establishes criteria for selection of the Registrant’s portfolio securities with which the Registrant intends to comply), in which case it should be included in the prospectus.

Instructions.

1. The term “nationally recognized securities rating organization” has the same meaning as used in Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act [17 CFR 240.15c3-1].
2. Rule 436(g)(1) of Regulation C under the Securities Act [17 CFR 230.436] provides that a security rating assigned by an NRSRO to a class of debt securities, a class of convertible debt securities, or a class of preferred stock is not considered a part of the registration statement for purposes of Sections 7 and 11 of the Securities Act. Therefore, in the case of

disclosure of a rating assigned to these types of securities issued by the Registrant, the Registrant need not include a written consent of the NRSRO as an exhibit to the registration statement as required by Item 25.2.n but must provide the disclosure called for by this Item.

3. Reference should be made to the statement of the Commission's policy on security ratings set forth under the section "General" in Regulation S-K [17 CFR 229.10] for the Commission's views on other important matters to be considered in disclosing securities ratings.

Item 11. Defaults and Arrears on Senior Securities

1. State the nature, date, and amount of default of payment of principal, interest, or amortization for each issue of long-term debt of the Registrant that is in default on the date of filing.

2. If an issue of capital stock has any accumulated dividend in arrears at the date of filing, state the title of each issue and the amount per share in arrears.

Item 12. Legal Proceedings

Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, any subsidiary of the Registrant, or the Registrant's investment adviser or principal underwriter is a party. Include the name of the court where the case is pending, the date instituted, the principal parties, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any proceeding instituted by a governmental authority or known to be contemplated by a governmental authority.

Instruction. Legal Proceedings, for purposes of this Item, are material only to the extent that they are likely to have a material adverse effect upon: (1) the ability of the investment adviser or principal underwriter to perform its contract with the Registrant; or (2) the Registrant.

Item 13. [Removed and reserved.]

Part B – INFORMATION REQUIRED IN A STATEMENT OF ADDITIONAL INFORMATION

Item 14. Cover Page

1. The outside cover page must contain the following information:
 - a. the Registrant's name;
 - b. a statement or statements (1) that the Statement of Additional Information is not a prospectus, (2) that the Statement of Additional Information should be read with the prospectus, and (3) how a copy of the prospectus may be obtained;

- c. the date of the Statement of Additional Information;
 - d. the date of the related prospectus and any other identifying information that the Registrant deems appropriate; and
 - e. the statement required by paragraph (b)(2) of Rule 481 under the Securities Act.
2. The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of required information.

Item 15. Table of Contents

List the contents of the Statement of Additional Information, and, where useful, provide a cross-reference to related disclosure in the prospectus.

Item 16. General Information and History

If the Registrant has engaged in a business other than that of an investment company during the past five years, state the nature of the other business and give the approximate date on which the Registrant commenced business as an investment company. If the Registrant's name was changed during that period, state its former name and the approximate date on which it was changed. If the change in the Registrant's business or name occurred in connection with any bankruptcy, receivership, or similar proceeding or any other material reorganization, readjustment, or succession, briefly describe the nature and results of the same.

Item 17. Investment Objective and Policies

1. Describe clearly and concisely the investment policies of the Registrant. It is not necessary to repeat information contained in the prospectus, but, in augmenting the disclosure about those types of investments, policies, or practices that are briefly discussed or identified in the prospectus, the Registrant should refer to the prospectus when necessary to clarify the additional information called for by this Item.
2. Concisely describe any fundamental policy of the Registrant not described in the prospectus with respect to each of the following activities:
 - a. the issuance of senior securities;
 - b. short sales, purchases on margin, and the writing of put and call options;
 - c. the borrowing of money (describe briefly any fundamental policy that limits the Registrant's ability to borrow money, and state the purpose for which the proceeds will be used);
 - d. the underwriting of securities of other issuers (include any fundamental policy concerning the acquisition of restricted securities, *i.e.*, securities that must be registered under the Securities Act before they may be offered or sold to the public);

- e. the concentration of investments in a particular industry or groups of industries;
- f. the purchase or sale of real estate and real estate mortgage loans;
- g. the purchase or sale of commodities or commodity contracts, including futures contracts;
- h. the making of loans (for purposes of this Item, the term “loans” does not include the purchase of a portion of an issue of publicly distributed bonds, debentures, or other securities, whether or not the purchase was made upon the original issuance of the securities; however, the term “loan” includes the loaning of cash or portfolio securities to any person); and
- i. any other policy that the Registrant deems fundamental.

Instructions.

1. For purposes of this Item, the term “fundamental policy” is defined as any policy that the Registrant has deemed to be fundamental or that may not be changed without the approval of a majority of the Registrant’s outstanding voting securities.

2. If the Registrant reserves freedom of action with respect to any of the foregoing activities (other than the activity described in paragraph e), it must disclose the maximum percentage of assets to be devoted to the particular activity.

3. Describe fully any significant investment policies of the Registrant not described in the prospectus that are not deemed fundamental and that may be changed without the approval of the holders of a majority of the voting securities (*e.g.*, investing for control of management, investing in foreign securities, or arbitrage activities).

Instruction. The Registrant should disclose the extent to which it may engage in the above policies and the risks inherent in such policies.

4. Briefly explain any significant change in the Registrant’s portfolio turnover rates over the last two fiscal years. If the Registrant anticipates a significant change in the portfolio turnover rate from that reported under caption k of Item 4.1 for its most recent fiscal year, so state. In the case of a new registration, the Registrant should state its policy with respect to portfolio turnover.

Item 18. Management

General Instructions.

- 1. For purposes of this Item 18, the terms below have the following meanings:
 - a. The term “family of investment companies” means any two or more registered investment companies that:

- (1) Share the same investment adviser or principal underwriter; and
- (2) Hold themselves out to investors as related companies for purposes of investment and investor services.

b. The term “fund complex” means two or more registered investment companies that:

- (1) Hold themselves out to investors as related companies for purposes of investment and investor services; or
- (2) Have a common investment adviser or have an investment adviser that is an affiliated person of the investment adviser of any of the other registered investment companies.

c. The term “immediate family member” means a person’s spouse; child residing in the person’s household (including step and adoptive children); and any dependent of the person, as defined in Section 152 of the Internal Revenue Code [26 U.S.C. 152].

d. The term “officer” means the president, vice-president, secretary, treasurer, controller, or any other officer who performs policy-making functions.

2. When providing information about directors, furnish information for directors who are interested persons of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, separately from the information for directors who are not interested persons of the Registrant. For example, when furnishing information in a table, you should provide separate tables (or separate sections of a single table) for directors who are interested persons and for directors who are not interested persons. When furnishing information in narrative form, indicate by heading or otherwise the directors who are interested persons and the directors who are not interested persons.

1. Provide the information required by the following table for each director and officer of the Registrant, and, if the Registrant has an advisory board, member of the board. Explain in a footnote to the table any family relationship between the persons listed.

(1)	(2)	(3)	(4)	(5)	(6)
Name, Address, and Age	Position(s) Held with Registrant	Term of Office and Length of Time Served	Principal Occupation(s) During Past 5 Years	Number of Portfolios in Fund Complex Overseen by Director	Other Directorships Held by Director

Instructions.

1. For purposes of this paragraph, the term “family relationship” means any relationship by blood, marriage, or adoption, not more remote than first cousin.

2. For each director who is an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, describe, in a footnote or otherwise, the relationship, events, or transactions by reason of which the director is an interested person.

3. State the principal business of any company listed under column (4) unless the principal business is implicit in its name.

4. Indicate in column (6) directorships not included in column (5) that are held by a director in any company with a class of securities registered pursuant to Section 12 of the Exchange Act or subject to the requirements of Section 15(d) of the Exchange Act or any company registered as an investment company under the Investment Company Act, and name the companies in which the directorships are held. Where the other directorships include directorships overseeing two or more portfolios in the same fund complex, identify the fund complex and provide the number of portfolios overseen as a director in the fund complex rather than listing each portfolio separately.

2. For each individual listed in column (1) of the table required by paragraph 1 of this Item 18, except for any director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, describe any positions, including as an officer, employee, director, or general partner, held with affiliated persons or principal underwriters of the Registrant.

Instruction. When an individual holds the same position(s) with two or more registered investment companies that are part of the same fund complex, identify the fund complex and provide the number of registered investment companies for which the position(s) are held rather than listing each registered investment company separately.

3. Describe briefly any arrangement or understanding between any director or officer and any other person(s) (naming the person(s)) pursuant to which he was selected as a director or officer.

Instruction. Do not include arrangements or understandings with directors or officers acting solely in their capacities as such.

4. For each non-resident director or officer of the Registrant listed in column (1) of the table required by paragraph 1, disclose whether he has authorized an agent in the United States to receive notice and, if so, disclose the name and address of the agent.

5. a. Briefly describe the leadership structure of the Registrant's board, including whether the chairman of the board is an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act. If the chairman of the board is an interested person of the Registrant, disclose whether the Registrant has a lead independent director and what specific role the lead independent director plays in the leadership of the Registrant. This disclosure should indicate why the Registrant has determined that its leadership structure is appropriate

given the specific characteristics or circumstances of the Registrant. In addition, disclose the extent of the board's role in the risk oversight of the Registrant, such as how the board administers its oversight function, and the effect that this has on the board's leadership structure.

b. Identify the standing committees of the Registrant's board of directors, and provide the following information about each committee:

- (1) A concise statement of the functions of the committee;
- (2) The members of the committee;
- (3) The number of committee meetings held during the last fiscal year; and

(4) If the committee is a nominating or similar committee, state whether the committee will consider nominees recommended by security holders and, if so, describe the procedures to be followed by security holders in submitting recommendations.

6. a. Unless disclosed in the table required by paragraph 1 of this Item 18, describe any positions, including as an officer, employee, director, or general partner, held by any director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, or immediate family member of the director, during the two most recently completed calendar years with:

- (1) The Registrant;
- (2) An investment company, or a person that would be an investment company but for the exclusions provided by Sections 3(c)(1) and 3(c)(7) of the Investment Company Act, having the same investment adviser or principal underwriter as the Registrant or having an investment adviser or principal underwriter that directly or indirectly controls, is controlled by, or is under common control with an investment adviser or principal underwriter of the Registrant;
- (3) An investment adviser, principal underwriter, or affiliated person of the Registrant; or
- (4) Any person directly or indirectly controlling, controlled by, or under common control with an investment adviser or principal underwriter of the Registrant.

b. Unless disclosed in the table required by paragraph 1 of this Item 18 or in response to paragraph 6.a of this Item 18, indicate any directorships held during the past five years by each director in any company with a class of securities registered pursuant to Section 12 of the Exchange Act or subject to the requirements of Section 15(d) of the Exchange Act or any company registered as an investment company under the Investment Company Act, and name the companies in which the directorships were held.

Instruction. When an individual holds the same position(s) with two or more portfolios that are part of the same fund complex, identify the fund complex and provide the number of portfolios for which the position(s) are held rather than listing each portfolio separately.

7. For each director, state the dollar range of equity securities beneficially owned by the director as required by the following table:

- a. In the Registrant; and
- b. On an aggregate basis, in any registered investment companies overseen by the director within the same family of investment companies as the Registrant.

(1)	(2)	(3)
Name of Director	Dollar Range of Equity Securities in the Registrant	Aggregate Dollar Range of Equity Securities in All Registered Investment Companies Overseen by Director in Family of Investment Companies

Instructions.

1. Information should be provided as of the end of the most recently completed calendar year. Specify the valuation date by footnote or otherwise.

2. Determine “beneficial ownership” in accordance with Rule 16a-1(a)(2) under the Exchange Act [17 CFR 240.16a-1].

3. In disclosing the dollar range of equity securities beneficially owned by a director in columns (2) and (3), use the following ranges: none, \$1–\$10,000, \$10,001–\$50,000, \$50,001–\$100,000, or over \$100,000.

8. For each director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, and his immediate family members, furnish the information required by the following table as to each class of securities owned beneficially or of record in:

- a. An investment adviser or principal underwriter of the Registrant; or
- b. person (other than a registered investment company) directly or indirectly controlling, controlled by, or under common control with an investment adviser or principal underwriter of the Registrant:

(1)	(2)	(3)	(4)	(5)	(6)
Name of Director	Name of Owners and	Company	Title of Class	Value of Securities	Percent of Class

Relationships
to Director

Instructions.

1. Information should be provided as of the end of the most recently completed calendar year. Specify the valuation date by footnote or otherwise.

2. An individual is a “beneficial owner” of a security if he is a “beneficial owner” under either Rule 13d-3 [17 CFR 240.13d-3] or Rule 16a-1(a)(2) under the Exchange Act.

3. Identify the company in which the director or immediate family member of the director owns securities in column (3). When the company is a person directly or indirectly controlling, controlled by, or under common control with an investment adviser or principal underwriter, describe the company’s relationship with the investment adviser or principal underwriter.

4. Provide the information required by columns (5) and (6) on an aggregate basis for each director and his immediate family members.

9. Unless disclosed in response to paragraph 8 of this Item 18, describe any direct or indirect interest, the value of which exceeds \$120,000, of each director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, or immediate family member of the director, during the two most recently completed calendar years, in:

a. An investment adviser or principal underwriter of the Registrant; or

b. A person (other than a registered investment company) directly or indirectly controlling, controlled by, or under common control with an investment adviser or principal underwriter of the Registrant.

Instructions.

1. A director or immediate family member has an interest in a company if he is a party to a contract, arrangement, or understanding with respect to any securities of, or interest in, the company.

2. The interest of the director and the interests of his immediate family members should be aggregated in determining whether the value exceeds \$120,000.

10. Describe briefly any material interest, direct or indirect, of any director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, or immediate family member of the director, in any transaction, or series of similar transactions, during the two most recently completed calendar years, in which the amount involved exceeds \$120,000 and to which any of the following persons was a party:

- a. The Registrant;
- b. An officer of the Registrant;
- c. An investment company, or a person that would be an investment company but for the exclusions provided by Sections 3(c)(1) and 3(c)(7) of the Investment Company Act, having the same investment adviser or principal underwriter as the Registrant or having an investment adviser or principal underwriter that directly or indirectly controls, is controlled by, or is under common control with an investment adviser or principal underwriter of the Registrant;
- d. An officer of an investment company, or a person that would be an investment company but for the exclusions provided by Sections 3(c)(1) and 3(c)(7) of the Investment Company Act, having the same investment adviser or principal underwriter as the Registrant or having an investment adviser or principal underwriter that directly or indirectly controls, is controlled by, or is under common control with an investment adviser or principal underwriter of the Registrant;
- e. An investment adviser or principal underwriter of the Registrant;
- f. An officer of an investment adviser or principal underwriter of the Registrant;
- g. A person directly or indirectly controlling, controlled by, or under common control with an investment adviser or principal underwriter of the Registrant; or
- h. An officer of a person directly or indirectly controlling, controlled by, or under common control with an investment adviser or principal underwriter of the Registrant.

Instructions.

1. Include the name of each director or immediate family member whose interest in any transaction or series of similar transactions is described and the nature of the circumstances by reason of which the interest is required to be described.
2. State the nature of the interest, the approximate dollar amount involved in the transaction, and, where practicable, the approximate dollar amount of the interest.
3. In computing the amount involved in the transaction or series of similar transactions, include all periodic payments in the case of any lease or other agreement providing for periodic payments.
4. Compute the amount of the interest of any director or immediate family member of the director without regard to the amount of profit or loss involved in the transaction(s).
5. As to any transaction involving the purchase or sale of assets, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost to the seller. Describe the method used in determining the purchase or sale price and the name of the person making the determination.

6. Disclose indirect, as well as direct, material interests in transactions. A person who has a position or relationship with, or interest in, a company that engages in a transaction with one of the persons listed in paragraphs 10.a through 10.h of this Item 18 may have an indirect interest in the transaction by reason of the position, relationship, or interest. The interest in the transaction, however, will not be deemed “material” within the meaning of paragraph 10 of this Item 18 where the interest of the director or immediate family member arises solely from the holding of an equity interest (including a limited partnership interest, but excluding a general partnership interest) or a creditor interest in a company that is a party to the transaction with one of the persons specified in paragraphs 10.a through 10.h of this Item 18, and the transaction is not material to the company.

7. The materiality of any interest is to be determined on the basis of the significance of the information to investors in light of all the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction with each other, and the amount involved in the transaction are among the factors to be considered in determining the significance of the information to investors.

8. No information need be given as to any transaction where the interest of the director or immediate family member arises solely from the ownership of securities of a person specified in paragraphs 10.a through 10.h of this Item 18 and the director or immediate family member receives no extra or special benefit not shared on a pro rata basis by all holders of the class of securities.

9. Transactions include loans, lines of credit, and other indebtedness. For indebtedness, indicate the largest aggregate amount of indebtedness outstanding at any time during the period, the nature of the indebtedness and the transaction in which it was incurred, the amount outstanding as of the end of the most recently completed calendar year, and the rate of interest paid or charged.

10. No information need be given as to any routine, retail transaction. For example, the Registrant need not disclose that a director has a credit card, bank or brokerage account, residential mortgage, or insurance policy with a person specified in paragraphs 10.a through 10.h of this Item 18 unless the director is accorded special treatment.

11. Describe briefly any direct or indirect relationship, in which the amount involved exceeds \$120,000, of any director who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, or immediate family member of the director, that existed at any time during the two most recently completed calendar years, with any of the persons specified in paragraphs 10.a through 10.h of this Item 18. Relationships include:

a. Payments for property or services to or from any person specified in paragraphs 10.a through 10.h of this Item 18;

b. Provision of legal services to any person specified in paragraphs 10.a through 10.h of this Item 18;

c. Provision of investment banking services to any person specified in paragraphs 10.a through 10.h of this Item 18, other than as a participating underwriter in a syndicate; and

d. Any consulting or other relationship that is substantially similar in nature and scope to the relationships listed in paragraphs 11.a through 11.c of this Item 18.

Instructions.

1. Include the name of each director or immediate family member whose relationship is described and the nature of the circumstances by reason of which the relationship is required to be described.

2. State the nature of the relationship and the amount of business conducted between the director or immediate family member and the person specified in paragraphs 10.a through 10.h of this Item 18 as a result of the relationship during the two most recently completed calendar years.

3. In computing the amount involved in a relationship, include all periodic payments in the case of any agreement providing for periodic payments.

4. Disclose indirect, as well as direct, relationships. A person who has a position or relationship with, or interest in, a company that has a relationship with one of the persons listed in paragraphs 10.a through 10.h of this Item 18 may have an indirect relationship by reason of the position, relationship, or interest.

5. In determining whether the amount involved in a relationship exceeds \$120,000, amounts involved in a relationship of the director should be aggregated with those of his immediate family members.

6. In the case of an indirect interest, identify the company with which a person specified in paragraphs 10.a through 10.h of this Item 18 has a relationship; the name of the director or immediate family member affiliated with the company and the nature of the affiliation; and the amount of business conducted between the company and the person specified in paragraphs 10.a through 10.h of this Item 18 during the two most recently completed calendar years.

7. In calculating payments for property and services for purposes of paragraph 11.a of this Item 18, the following may be excluded:

a. Payments where the transaction involves the rendering of services as a common contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority; or

b. Payments that arise solely from the ownership of securities of a person specified in paragraphs 10.a through 10.h of this Item 18 and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received.

8. No information need be given as to any routine, retail relationship. For example, the Registrant need not disclose that a director has a credit card, bank or brokerage account, residential mortgage, or insurance policy with a person specified in paragraphs 10.a through 10.h of this Item 18 unless the director is accorded special treatment.

12. If an officer of an investment adviser or principal underwriter of the Registrant, or an officer of a person directly or indirectly controlling, controlled by, or under common control with an investment adviser or principal underwriter of the Registrant, served during the two most recently completed calendar years, on the board of directors of a company where a director of the Registrant who is not an interested person of the Registrant, as defined in Section 2(a)(19) of the Investment Company Act and the rules thereunder, or immediate family member of the director, was during the two most recently completed calendar years, an officer, identify:

- a. The company;
- b. The individual who serves or has served as a director of the company and the period of service as director;
- c. The investment adviser or principal underwriter or person controlling, controlled by, or under common control with the investment adviser or principal underwriter where the individual named in paragraph 12.b of this Item 18 holds or held office and the office held; and
- d. The director of the Registrant or immediate family member who is or was an officer of the company; the office held; and the period of holding the office.

13. In the case of a Registrant that is not a business development company, provide the following for all directors of the Registrant, all members of the advisory board of the Registrant, and for each of the three highest paid officers or any affiliated person of the Registrant with aggregate compensation from the Registrant for the most recently completed fiscal year in excess of \$60,000 (“Compensated Persons”).

- a. Furnish the information required by the following table:

COMPENSATION TABLE

(1)	(2)	(3)	(4)	(5)
Name of Person, Position	Aggregate Compensation From Fund	Pension or Retirement Benefits Accrued As Part of Fund Expenses	Estimated Annual Benefits Upon Retirement	Total Compensation From Fund and Fund Complex Paid to Directors

Instructions.

1. For column (1), indicate, if necessary, the capacity in which the remuneration is received. For Compensated Persons that are directors of the Registrant, compensation is amounts received for service as a director.

2. If the Registrant has not completed its first full year since its organization, furnish the information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding. Disclose in a footnote to the Compensation Table the period for which the information is furnished.

3. Include in column (2) amounts deferred at the election of the Compensated Person, whether pursuant to a plan established under Section 401(k) of the Internal Revenue Code [26 U.S.C. 401(k)] or otherwise for the fiscal year in which earned. Disclose in a footnote to the Compensation Table the total amount of deferred compensation (including interest) payable to or accrued for any Compensated Person.

4. Include in columns (3) and (4) all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant, any of its subsidiaries, or other companies in the Fund Complex. Omit column (4) where retirement benefits are not determinable.

5. For any defined benefit or actuarial plan under which benefits are determined primarily by final compensation (or average final compensation) and years of service, provide the information required in column (4) in a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) in specified compensation and years of service classifications. Also provide the estimated credited years of service for each Compensated Person.

6. Include in column (5) only aggregate compensation paid to a director for service on the board and all other boards of investment companies in a Fund Complex specifying the number of such other investment companies.

b. Describe briefly the material provisions of any pension, retirement, or other plan or any arrangement other than fee arrangements disclosed in paragraph (a) pursuant to which Compensated Persons are or may be compensated for any services provided, including amounts paid, if any, to the Compensated Person under any such arrangements during the most recently completed fiscal year. Specifically include the criteria used to determine amounts payable under the plan, the length of service or vesting period required by the plan, the retirement age or other event which gives rise to payments under the plan, and whether the payment of benefits is secured or funded by the Registrant.

14. In the case of a Registrant that is a business development company, provide the information required by Item 402 of Regulation S-K [17 CFR 229.402].

15. **Codes of Ethics.** Provide a brief statement disclosing whether the Registrant and its investment adviser and principal underwriter have adopted codes of ethics under Rule 17j-1

under the Investment Company Act [17 CFR 270.17j-1] and whether these codes of ethics permit personnel subject to the codes to invest in securities, including securities that may be purchased or held by the Registrant. Also, explain in the statement that these codes of ethics are available on the EDGAR Database on the Commission's internet site at <http://www.sec.gov>, and that copies of these codes of ethics may be obtained, after paying a duplicating fee, by electronic request at the following email address: publicinfo@sec.gov.

Instruction. A Registrant that is not required to adopt a code of ethics under Rule 17j-1 under the Investment Company Act is not required to respond to this Item.

16. Unless the Registrant invests exclusively in non-voting securities, describe the policies and procedures that the Registrant uses to determine how to vote proxies relating to portfolio securities, including the procedures that the Registrant uses when a vote presents a conflict between the interests of the Registrant's shareholders, on the one hand, and those of the Registrant's investment adviser; principal underwriter; or any affiliated person (as defined in Section 2(a)(3) of the Investment Company Act and the rules thereunder) of the Registrant, its investment adviser, or its principal underwriter, on the other. Include any policies and procedures of the Registrant's investment adviser, or any other third party, that the Registrant uses, or that are used on the Registrant's behalf, to determine how to vote proxies relating to portfolio securities. Also, state that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (i) without charge, upon request, by calling a specified toll-free (or collect) telephone number; sending an e-mail to a specified e-mail address, if any; or on or through the Registrant's website at a specified internet address; and (ii) on the Commission's website at <http://www.sec.gov>.

Instructions.

1. A Registrant may satisfy the requirement to provide a description of the policies and procedures that it uses to determine how to vote proxies relating to portfolio securities by including a copy of the policies and procedures themselves.

2. If a Registrant discloses that the Registrant's proxy voting record is available by calling a toll-free (or collect) telephone number or sending an e-mail to a specified e-mail address, if any, and the Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for this information, the Registrant (or financial intermediary) must send the information disclosed in the Registrant's most recently filed report on Form N-PX [17 CFR 274.129], within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. If a Registrant discloses that the Registrant's proxy voting record is available on or through its website, the Registrant must make available free of charge the information disclosed in the Registrant's most recently filed report on Form N-PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant's most recently filed report on Form N-PX must remain available on or through the Registrant's website for as long as the Registrant remains subject to the requirements of Rule 30b1-4 under the Investment Company Act [17 CFR 270.30b1-4] and discloses that the Registrant's proxy voting record is available on or through its website.

17. For each director, briefly discuss the specific experience, qualifications, attributes, or skills that led to the conclusion that the person should serve as a director for the Registrant at the time that the disclosure is made, in light of the Registrant's business and structure. If material, this disclosure should cover more than the past five years, including information about the person's particular areas of expertise or other relevant qualifications.

Item 19. Control Persons and Principal Holders of Securities

Furnish the following information as of a specified date no more than 30 days prior to the date of filing of the registration statement or amendment to it.

1. State the name and address of each person who controls the Registrant, and briefly explain the effect of such control on the voting rights of other shareholders. For each control person, state the percentage of the Registrant's voting securities owned or any other basis of control. If the control person is a company, disclose the state or other jurisdiction under the laws of which it is organized. List all parents of each control person.

Instructions.

1. The term "control" is defined in the instruction to Item 9.3 of this Form.
2. A Registrant that is controlled by its adviser or underwriter(s) before the effective date of the registration statement need not respond to this Item if, immediately after the public offering, there will be no control person.

2. State the name, address, and percentage of ownership of each person who owns of record or is known by the Registrant to own of record or beneficially five percent or more of any class of the Registrant's outstanding equity securities.

Instructions.

1. Calculate the percentages on the basis of the amount of common stock outstanding.
2. If securities are being registered in connection with or pursuant to a plan of acquisition, reorganization, readjustment, or succession, indicate, to the extent practicable, the status to exist upon consummation of the plan on the basis of present holdings and commitments.
3. If, to the knowledge of the Registrant or any principal underwriter of its securities, five percent or more of any class of voting securities of the Registrant are or will be held subject to any voting trust or other similar agreement, disclose this fact.
4. Indicate whether the securities are owned both of record and beneficially, or of record only, or beneficially only, and disclose the respective percentage owned in each manner.
3. Disclose all equity securities of the Registrant owned by all officers, directors, and members of the advisory board of the Registrant as a group, without naming them. In any

case where the amount owned by directors and officers as a group is less than one percent of the class, a statement to that effect is sufficient.

Item 20. Investment Advisory and Other Services

1. Furnish the following information about each investment adviser:

a. the names of all controlling persons, the basis of such control, and, if material, the business history of any organization that controls the adviser;

b. the names of any affiliated person of the Registrant who is also an affiliated person of the investment adviser and a list of all capacities in which such person named is affiliated with the Registrant and/or with the investment adviser; and

Instruction. If an affiliated person of the Registrant, either alone or together with others, is a controlling person of the investment adviser, the Registrant must disclose that fact but need not supply the specific amount of percentage of the outstanding voting securities of the investment adviser that are owned by the controlling person.

c. the method of computing the advisory fee payable by the Registrant, including:

(1) the total dollar amounts paid to the adviser by the Registrant under the investment advisory contract for the last three fiscal years;

(2) if applicable, any credits that reduced the advisory fee for any of the last fiscal years; and

(3) any expense limitation provision.

Instructions.

1. If the advisory fee payable by the Registrant varies depending on the Registrant's investment performance in relation to some standard, set forth the standard along with a fee schedule in tabular form. The Registrant may include examples showing the fees the adviser would earn at various levels of performance, but such examples must include calculations showing the maximum and minimum fee percentages that could be earned under the contract.

2. State each type of credit or offset separately.

3. Where the Registrant is subject to more than one expense limitation provision, describe only the most restrictive provision.

2. Concisely describe all services performed for or on behalf of the Registrant that are supplied or paid for wholly or in substantial part by the investment adviser in connection with the investment advisory contract.

3. Describe briefly all fees, expenses, and costs of the Registrant that are to be paid by persons other than the investment adviser or the Registrant, and identify such persons.

4. Summarize any management-related service contract under which services are provided to the Registrant that is not otherwise disclosed in response to an Item of this Form and may be of interest to a purchaser of the Registrant's securities, indicating the parties to the contract and the total dollars paid, and by whom, for the past three years.

Instructions.

1. A "management-related service contract" includes any agreement whereby another person contracts with the Registrant to keep, prepare, and/or file accounts, books, records, or other documents that the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following: (1) any contract with the Registrant to provide investment advice; (2) any agreement to act as custodian, transfer agent, or dividend-paying agent; and (3) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.

2. No information is required about the service of mailing proxies or periodic reports to shareholders of the Registrant.

3. In summarizing the substantive provisions of a management-related service contract, include: (1) the name of the person providing the service; (2) any direct or indirect relationship of that person with the Registrant, its investment adviser, or its principal underwriter; (3) the nature of the services provided; and (4) the basis of the compensation paid for the last three fiscal years.

5. If any person (other than a bona fide director, officer, member of an advisory board, employee of the Registrant, or a person named as an investment adviser in response to paragraph 1 of this Item), pursuant to any understanding, whether formal or informal, regularly furnishes advice to the Registrant or the investment adviser of the Registrant with respect to the desirability of the Registrant's investing in, purchasing, or selling securities or other property, or is empowered to determine which securities or other property should be purchased or sold by the Registrant, and receives direct or indirect remuneration from the Registrant, furnish the following information:

- a. the name of the person;
- b. a description of the nature of the arrangement and the advice or information given; and
- c. any remuneration (including, for example, participation, directly or indirectly, in commissions or other compensation paid in connection with transactions in the Registrant's portfolio securities) paid for the advice or information, and a statement as to how and by whom such remuneration was paid for the last three fiscal years.

Instruction. No information is required with respect to any of the following:

1. persons whose advice was furnished solely through uniform publications distributed to subscribers;
2. persons who furnished only statistical and other factual information, advice regarding economic factors and trends, or advice as to occasional transactions in specific securities, but without generally furnishing advice or making recommendations regarding the purchase or sale of securities by the Registrant;
3. a company that is excluded from the definition of “investment adviser” of an investment company by reason of Section 2(a)(20)(iii) of the Investment Company Act;
4. any person the character and amount of whose compensation for such service must be approved by a court; or
5. such other persons as the Commission has by rules and regulations or order determined not to be an “investment adviser” of an investment company.
6. Furnish the name and principal business address of each of the Registrant’s custodians, the nature of the business of each such person, and a general description of the services performed by each.
7. Furnish the name and principal business address of the Registrant’s independent public accountant, and provide a general description of the services performed by such person.
8. If an affiliated person of the Registrant, or an affiliated person of an affiliated person of the Registrant, acts as custodian, transfer agent, or dividend-paying agent for the Registrant, furnish a description of the services performed by that person and the basis for remuneration (*e.g.*, the method by which that person’s fee is calculated).

Item 21. Portfolio Managers

1. **Other Accounts Managed.** If a Portfolio Manager required to be identified in response to Item 9.1.c is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:
 - a. The Portfolio Manager’s name;
 - b. The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:
 - (1) Registered investment companies;
 - (2) Other pooled investment vehicles; and
 - (3) Other accounts.

c. For each of the categories in Item 21.1.b, the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on the performance of the account; and

d. A description of any material conflicts of interest that may arise in connection with the Portfolio Manager's management of the Registrant's investments, on the one hand, and the investments of the other accounts included in response to Item 21.1.b, on the other. This description would include, for example, material conflicts between the investment strategy of the Registrant and the investment strategy of other accounts managed by the Portfolio Manager and material conflicts in allocation of investment opportunities between the Registrant and other accounts managed by the Portfolio Manager.

Instructions.

1. Provide the information required by Item 21.1 as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. If a committee, team, or other group of persons that includes the Portfolio Manager is jointly and primarily responsible for the day-to-day management of the portfolio of an account, include the account in responding to Item 21.1.

2. **Compensation.** Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to Item 9.1.c. For each type of compensation (*e.g.*, salary, bonus, deferred compensation, retirement plans and arrangements), describe with specificity the criteria on which that type of compensation is based, for example, whether compensation is fixed, whether (and, if so, how) compensation is based on the Registrant's pre- or after-tax performance over a certain time period, and whether (and, if so, how) compensation is based on the value of assets held in the Registrant's portfolio. For example, if compensation is based solely or in part on performance, identify any benchmark used to measure performance and state the length of the period over which performance is measured.

Instructions.

1. Provide the information required by Item 21.2 as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Disclose the date as of which the information is provided.

2. Compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or non-cash. Group life, health, hospitalization, medical reimbursement, and pension and retirement plans and arrangements may be omitted, provided that they do not discriminate in scope, terms, or operation in favor of the Portfolio Manager or a group of employees that includes the Portfolio

Manager and are available generally to all salaried employees. The value of compensation is not required to be disclosed under this Item.

3. Include a description of the structure of, and the method used to determine, any compensation received by the Portfolio Manager from the Registrant, the Registrant's investment adviser, or any other source with respect to management of the Registrant and any other accounts included in the response to Item 21.1.b. This description must clearly disclose any differences between the method used to determine the Portfolio Manager's compensation with respect to the Registrant and other accounts, *e.g.*, if the Portfolio Manager receives part of an advisory fee that is based on performance with respect to some accounts but not the Registrant, this must be disclosed.

3. **Ownership of Securities.** For each Portfolio Manager required to be identified in response to Item 9.1.c, state the dollar range of equity securities in the Registrant beneficially owned by the Portfolio Manager using the following ranges: none; \$1–\$10,000; \$10,001–\$50,000; \$50,001–\$100,000; \$100,001–\$500,000; \$500,001–\$1,000,000; or over \$1,000,000.

Instructions.

1. Provide the information required by Item 21.3 as of the end of the Registrant's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Registrant's registration statement that discloses a new Portfolio Manager, information with respect to any newly identified Portfolio Manager must be provided as of the most recent practicable date. Specify the valuation date.

2. Determine "beneficial ownership" in accordance with Rule 16a-1(a)(2) under the Exchange Act.

Item 22. Brokerage Allocation and Other Practices

1. Concisely describe how transactions in portfolio securities are or will be effected. Provide a general statement about brokerage commissions and mark-ups on principal transactions and the aggregate amount of any brokerage commissions paid by the Registrant during the three most recent fiscal years. Concisely explain any material change in brokerage commissions paid by the Registrant during the most recent fiscal year as compared to the two prior fiscal years.

2. a. State the total dollar amount, if any, of brokerage commissions paid by the Registrant during the three most recent fiscal years to any broker that: (1) is an affiliated person of the Registrant; (2) is an affiliated person of an affiliated person of the Registrant; or (3) has an affiliated person that is an affiliated person of the Registrant, its investment adviser, or principal underwriter. In the case of an initial public offering, disclose whether or not the Registrant intends to use any brokers described in this subparagraph, a. Identify each broker, and state the relationships that cause the broker to be identified in this Item.

b. State for each broker identified in response to paragraph 2.a of this Item:

(1) the percentage of the Registrant's aggregate brokerage commissions paid to the broker during the most recent fiscal year; and

(2) the percentage of the Registrant's aggregate dollar amount of transactions involving the payment of commissions effected through the broker during the most recent fiscal year.

c. Where there is a material difference in the percentage of brokerage commissions paid to, and the percentage of transactions effected through, any broker identified in response to paragraph 2.a of this Item, state the reasons for the difference.

3. Describe briefly how brokers will be selected to effect securities transactions for the Registrant and how evaluations will be made of the overall reasonableness of brokerage commissions paid, including the factors considered.

Instructions.

1. If the receipt of products or services other than brokerage or research services is a factor considered in the selection of brokers, specify the products and services.

2. If the receipt of research services is a factor in selecting brokers, identify the nature of the research services.

3. State whether persons acting on behalf of the Registrant are authorized to pay a broker a commission in excess of that which another broker might have charged for effecting the same transaction because of the value of brokerage or research services provided by the broker.

4. If applicable, explain that research services furnished by brokers through whom the Registrant effects securities transactions may be used by the Registrant's investment adviser in servicing all of its accounts and that not all the services may be used by the investment adviser in connection with the Registrant; or, if other policies or practices are applicable to the Registrant with respect to the allocation of research services provided by brokers, concisely explain the policies and practices.

5. Registrants should refer to Rule 17e-1 under the Investment Company Act [17 CFR 270.17e-1] with respect to securities transactions executed by exchange members.

4. If during the last fiscal year the Registrant or its investment adviser, pursuant to an agreement or understanding with a broker or otherwise through an internal allocation procedure, directed the Registrant's brokerage transactions to a broker because of research services provided, state the amount of the transactions and related commissions.

5. If the Registrant has acquired during its most recent fiscal year or during the period of time since organization, whichever is shorter, securities of its regular brokers or dealers, as defined in Rule 10b-1 under the Investment Company Act [17 CFR 270.10b-1], or their parents, identify those brokers or dealers, and state the value of the Registrant's

aggregate holdings of the securities of each subject issuer as of the close of the Registrant's most recent fiscal year.

Instruction. The Registrant need only disclose information with respect to the parent of a broker or dealer that derived more than fifteen percent of its gross revenues from the business of a broker, a dealer, an underwriter, or an investment adviser.

Item 23. Tax Status

Provide information about the Registrant's tax status that is not required to be in the prospectus but that the Registrant believes is of interest to investors, including, but not limited to, an explanation of the legal basis for the Registrant's tax status. If the Registrant is qualified or intends to qualify under Subchapter M of the Internal Revenue Code and has not disclosed that fact in the prospectus, then disclosure of that fact will be sufficient. If not otherwise disclosed, concisely describe any special or unusual tax aspects of the Registrant, *e.g.*, taxes resulting from foreign investment or from status as a personal holding company, or any tax loss carry-forward to which the Registrant may be entitled.

Item 24. Financial Statements

Provide the financial statements of the Registrant.

Instructions.

1. *a.* Furnish, in a separate section following the responses to the above items in Part B of the registration statement, the financial statements and schedules required by Regulation S-X [17 CFR 210]. (*See* Section 210.3-18 and Sections 210.6-01 through 210.6-10 of Regulation S-X.)

b. A business development company that has had at least one fiscal year of operations need provide financial statements under Item 8.6.c of Part A only. A business development company with less than one fiscal year of operations should refer to Item 8.6.c of Part A and Instructions 1 and 2 thereunder in responding to this Item 24.

2. Notwithstanding the requirements of Instruction 1 above, the following statements and schedules required by Regulation S-X may be omitted from Part B and included in Part C of the registration statement:

- a.* the statement of any subsidiary that is not a majority-owned subsidiary; and
- b.* Columns C and D of Schedule III [17 CFR 210.12-14].

3. In addition to the requirements of Rule 3-18 of Regulation S-X [17 CFR 210.3-18], any company registered under the Investment Company Act that has not previously had an effective registration statement under the Securities Act shall include in its initial registration statement under the Securities Act such additional financial statements and financial highlights (which need not be audited) as are necessary to make the financial statements and financial

highlights included in the registration statement as of a date within 90 days prior to the date of filing.

4. Every annual report to shareholders required by Section 30(e) of the Investment Company Act and Rule 30e-1 thereunder shall contain the following information:

a. the audited financial statements required by Regulation S-X for the periods specified by Regulation S-X, modified to permit the omission of the statements and schedules that may be omitted from Part B of the registration statement by Instruction 2 above and as permitted by Instruction 7 below;

b. the financial highlights required by Item 4.1 of this Form, for the five most recent fiscal years, with at least the most recent year audited;

c. unless shown elsewhere in the report as part of the financial statements required by a above, the aggregate remuneration paid by the company during the period covered by the report (1) to all directors and to all members of any advisory board for regular compensation; (2) to each director and to each member of an advisory board for special compensation; (3) to all officers; and (4) to each person of whom any officer or director of the company is an affiliated person;

d. the information concerning changes in and disagreements with accountants and on accounting and financial disclosure required by Item 304 of Regulation S-K [17 CFR 229.304];

e. the management information required by paragraph 1 of Item 18; and

f. a statement that the SAI includes additional information about directors of the Registrant and is available, without charge, upon request, and a toll-free (or collect) telephone number and e-mail address, if any, for shareholders to use to request the SAI.

g. *Management's Discussion of Fund Performance.* Disclose the following information:

(1) Discuss the factors that materially affected the Fund's performance during the most recently completed fiscal year, including the relevant market conditions and the investment strategies and techniques used by the Fund. The information presented may include tables, charts, and other graphical depictions.

(2) (A) Provide a line graph comparing the initial and subsequent account values at the end of each of the most recently completed 10 fiscal years of the Fund (or for the life of the Fund, if shorter), but only for periods subsequent to the effective date of the Fund's registration statement. Assume a \$10,000 initial investment at the beginning of the first fiscal year in an appropriate broad-based securities market index for the same period.

1. *Line Graph Computation.*

(a) Assume that the initial investment was made at the offering price last calculated on the business day before the first day of the first fiscal year.

(b) Base subsequent account values on the market price (or, if shares are not listed, the net asset value) of the Fund on the last business day of the first and each subsequent fiscal year.

(c) Calculate the final account value by assuming the account was closed and sale was at the market price (or, if shares are not listed, the net asset value) on the last business day of the most recent fiscal year.

(d) Base the line graph on the Fund's required minimum initial investment if that amount exceeds \$10,000.

2. *Multiple Class Funds.* The Fund can select which Class to include, consistent with the requirements of Instruction 3(a) to Item 4(b)(2) of Form N-1A [17 CFR 274.11A].

(B) In a table placed within or next to the graph, provide the Fund's average annual total returns for the 1-, 5-, and 10- year periods as of the end of the last day of the most recent fiscal year (or for the life of the Fund, if shorter), but only for periods subsequent to the effective date of the Fund's registration statement. Average annual total returns should be computed in accordance with Item 26(b)(1) of Form N-1A, except with respect to reinvestments of dividends and distributions, which must be calculated consistent with Item 4 of this Form. Include a statement accompanying the graph and table to the effect that past performance does not predict future performance and that the graph and table do not reflect the deduction of taxes that a shareholder would pay on fund distributions or the sale of fund shares.

(C) *Sales Load.* Reflect any sales load (or any other fees charged at the time of purchasing shares or opening an account) by beginning the line graph at the amount that actually would be invested (*i.e.*, assume that the maximum sales load, and other charges deducted from payments, is deducted from the initial \$10,000 investment). For a Fund whose shares are subject to a contingent deferred sales load, assume the deduction of the maximum deferred sales load (or other charges) that would apply for a complete sale that received the market price (or, if shares are not listed, the net asset value) on the last business day of the most recent fiscal year. For any other deferred sales load, repurchase fee, or withdrawal charge, assume that the deduction is in the amount(s) and at the time(s) that the sales load, repurchase fee, or withdrawal charge actually would have been deducted.

(D) *Dividends and Distributions.* Assume reinvestment of all of the Fund's dividends and distributions on the reinvestment dates during the period, and reflect any sales load imposed upon reinvestment of dividends or distributions or both.

(E) *Account Fees.* Reflect recurring fees that are charged to all accounts.

1. For any account fees that vary with the size of the account, assume a \$10,000 account size.

2. Reflect, as appropriate, any recurring fees charged to shareholder accounts that are paid other than by sale of the Fund's shares.

3. Reflect an annual account fee that applies to more than one Fund by allocating the fee in the following manner: divide the total amount of account fees collected during the year by the Funds' total average market price, multiply the resulting percentage by the average account value for each Fund and reduce the value of each hypothetical account at the end of each fiscal year during which the fee was charged.

(F) *Appropriate Index.* For purposes of this Item, an "appropriate broad-based securities market index" is one that is administered by an organization that is not an affiliated person of the Fund, its investment adviser, or principal underwriter, unless the index is widely recognized and used. Adjust the index to reflect the reinvestment of dividends on securities in the index, but do not reflect the expenses of the Fund.

(G) *Additional Indexes.* A Fund is encouraged to compare its performance not only to the required broad-based index, but also to other more narrowly based indexes that reflect the market sectors in which the Fund invests. A Fund also may compare its performance to an additional broad-based index, or to a non-securities index (e.g., the Consumer Price Index), so long as the comparison is not misleading.

(H) *Change in Index.* If the Fund uses an index that is different from the one used for the immediately preceding fiscal year, explain the reason(s) for the change and compare the Fund's annual change in the value of an investment in the hypothetical account with the new and former indexes.

(I) *Other Periods.* The line graph may cover earlier fiscal years and may compare the ending values of interim periods (e.g., monthly or quarterly ending values), so long as those periods are after the effective date of the Fund's registration statement.

(J) *Scale.* The axis of the graph measuring dollar amounts may use either a linear or a logarithmic scale.

(K) *New Funds.* A New Fund is not required to include the information specified by this Item in its prospectus (or annual report), unless Form N-2 (or the annual report) contains audited financial statements covering a period of at least 6 months.

(L) *Change in Investment Adviser.* If the Fund has not had the same investment adviser for the previous 10 fiscal years, the Fund may begin the line graph on the date that the current adviser began to provide advisory services to the Fund so long as:

1. Neither the current adviser nor any affiliate is or has been in "control" of the previous adviser under Section 2(a)(9) of the Investment Company Act;

2. The current adviser employs no officer(s) of the previous adviser or employees of the previous adviser who were responsible for providing investment advisory or portfolio management services to the Fund; and

3. The graph is accompanied by a statement explaining that previous periods during which the Fund was advised by another investment adviser are not shown.

(3) Discuss the effect of any policy or practice of maintaining a specified level of distributions to shareholders on the Fund's investment strategies and per share net asset value during the last fiscal year. Also discuss the extent to which the Fund's distribution policy resulted in distributions of capital.

h. If the Registrant has filed a registration statement pursuant to General Instruction A.2:

(1) *Senior Securities.* Include the information required by Item 4.3.

(2) *Fee and Expense Table.* Include the information required by Item 3.1.

(3) *Share Price Data.* Include the information required by Item 8.5.

(4) *Unresolved Staff Comments.* If the Registrant has received written comments from the Commission staff regarding its periodic or current reports under the Exchange Act or Investment Company Act or its registration statement not less than 180 days before the end of its fiscal period to which the annual report relates, and such comments remain unresolved, disclose the substance of any such unresolved comments that the Registrant believes are material. Such disclosure may provide other information including the position of the Registrant with respect to any such comment.

5. Every report to shareholders required by Section 30(e) of the Investment Company Act and Rule 30e-1 thereunder, except the annual report, shall contain the following information (which need not be audited):

a. the financial statements required by Regulation S-X for the period commencing either with (1) the beginning of the company's fiscal year (or date of organization, if newly organized); or (2) a date not later than the date after the close of the period included in the last report conforming with the requirements of Rule 30e-1 and the most recent preceding fiscal year, modified to permit the omission of the statements and schedules that may be omitted from Part B of the registration statement by Instruction 2 above and as permitted by Instruction 7 below;

b. the financial highlights required by Item 4.1 of this Form, for the period of the report as specified by subparagraph a of this instruction, and the most recent preceding fiscal year;

c. unless shown elsewhere in the report as part of the financial statements required by subparagraph a of this instruction, the aggregate remuneration paid by the company during

the period covered by the report (1) to all directors and to all members of any advisory board for regular compensation; (2) to each director and to each member of an advisory board for special compensation; (3) to all officers; and (4) to each person of whom an officer or director of the company is an affiliated person; and

d. the information concerning changes in and disagreements with accountants and on accounting and financial disclosure required by Item 304 of Regulation S-K.

6. Every annual and semi-annual report to shareholders required by Section 30(e) of the Investment Company Act and Rule 30e-1 thereunder shall contain the following information:

a. one or more tables, charts, or graphs depicting the portfolio holdings of the Registrant by reasonably identifiable categories (*e.g.*, type of security, industry sector, geographic region, credit quality, or maturity) showing the percentage of net asset value or total investments attributable to each. The categories and the basis of presentation (*e.g.*, net asset value or total investments) should be selected, and the presentation should be formatted, in a manner reasonably designed to depict clearly the types of investments made by the Fund, given its investment objectives. If the Fund depicts portfolio holdings according to credit quality, it should include a description of how the credit quality of the holdings were determined, and if credit ratings, as defined in Section 3(a)(60) of the Exchange Act, assigned by a credit rating agency, as defined in Section 3(a)(61) of the Exchange Act, are used, explain how they were identified and selected. This description should be included near, or as part of, the graphical representation.

b. *Statement Regarding Availability of Quarterly Portfolio Schedule.* A statement that: (i) the Registrant files its complete schedule of portfolio holdings with the SEC for the first and third quarters of each fiscal year as an exhibit to its reports on Form N-PORT [17 CFR 274.150]; (ii) the Registrant's Form N-PORT reports are available on the Commission's website at <http://www.sec.gov>; (iii) if the Registrant makes the information on Form N-PORT available to shareholders on its website or upon request, a description of how the information may be obtained from the Registrant.

c. A statement that a description of the policies and procedures that the Registrant uses to determine how to vote proxies relating to portfolio securities is available (1) without charge, upon request, by calling a specified toll-free (or collect) telephone number or sending an e-mail to a specified e-mail address, if any; (2) on the Registrant's website, if applicable; and (3) on the Commission's website at <http://www.sec.gov>; and

d. A statement that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (1) without charge, upon request, by calling a specified toll-free (or collect) telephone number; sending an e-mail to a specified e-mail address, if any; or on or through the Registrant's website at a specified internet address; and (2) on the Commission's website at <http://www.sec.gov>.

e. If the Registrant's board of directors approved any investment advisory contract during the Registrant's most recent fiscal half-year, discuss in reasonable detail the material

factors and the conclusions with respect thereto that formed the basis for the board's approval. Include the following in the discussion:

(1) Factors relating to both the board's selection of the investment adviser and approval of the advisory fee and any other amounts to be paid by the Registrant under the contract. This would include, but not be limited to, a discussion of the nature, extent, and quality of the services to be provided by the investment adviser; the investment performance of the Registrant and the investment adviser; the costs of the services to be provided and profits to be realized by the investment adviser and its affiliates from the relationship with the Registrant; the extent to which economies of scale would be realized as the Registrant grows; and whether fee levels reflect these economies of scale for the benefit of the Registrant's investors. Also indicate in the discussion whether the board relied upon comparisons of the services to be rendered and the amounts to be paid under the contract with those under other investment advisory contracts, such as contracts of the same and other investment advisers with other registered investment companies or other types of clients (*e.g.*, pension funds and other institutional investors). If the board relied upon such comparisons, describe the comparisons that were relied on and how they assisted the board in concluding that the contract should be approved; and

(2) If applicable, any benefits derived or to be derived by the investment adviser from the relationship with the Registrant such as soft dollar arrangements by which brokers provide research to the Registrant or its investment adviser in return for allocating the Registrant's brokerage.

f. Board approvals covered by Instruction 6.e to this Item include both approvals of new investment advisory contracts and approvals of contract renewals. Investment advisory contracts covered by Instruction 6.e include subadvisory contracts. Conclusory statements or a list of factors will not be considered sufficient disclosure under Instruction 6.e. Relate the factors to the specific circumstances of the Registrant and the investment advisory contract and state how the board evaluated each factor. For example, it is not sufficient to state that the board considered the amount of the investment advisory fee without stating what the board concluded about the amount of the fee and how that affected its decision to approve the contract. If any factor enumerated in Instruction 6.e.(1) to this Item is not relevant to the board's evaluation of an investment advisory contract, note this and explain the reasons why the factor is not relevant.

g. Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports like this one will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

7. *Schedule IX – Summary schedule of investments in securities of unaffiliated issuers* [17 CFR 210.12-12C] may be included in the financial statements required under Instructions 4.a and 5.a of this Item in lieu of *Schedule I – Investments in securities of unaffiliated issuers* [17 CFR 210.12-12] if:

a. the Registrant states in the report that the Registrant’s complete schedule of investments in securities of unaffiliated issuers is available (i) without charge, upon request, by calling a specified toll-free (or collect) telephone number or sending an e-mail to a specified e-mail address, if any; (ii) on the Registrant’s website, if applicable; and (iii) on the Commission’s website at [http:// www.sec.gov](http://www.sec.gov); and

b. whenever the Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for the Registrant’s schedule of investments in securities of unaffiliated issuers, the Registrant (or financial intermediary) sends a copy of Schedule I – Investments in securities of unaffiliated issuers within 3 business days of receipt by first-class mail or other means designed to ensure equally prompt delivery.

8. a. When a Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for a description of the policies and procedures that the Registrant uses to determine how to vote proxies, the Registrant (or financial intermediary) must send the information most recently disclosed in response to Item 18.16 of this Form or Item 7 of Form N-CSR within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

b. If a Registrant discloses that the Registrant’s proxy voting record is available by calling a toll-free (or collect) telephone number or sending an e-mail to a specified e-mail address, if any, and the Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for this information, the Registrant (or financial intermediary) must send the information disclosed in the Registrant’s most recently filed report on Form N-PX, within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

c. If a Registrant discloses that the Registrant’s proxy voting record is available on or through its website, the Registrant must make available free of charge the information disclosed in the Registrant’s most recently filed report on Form N-PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant’s most recently filed report on Form N-PX must remain available on or through the Registrant’s website for as long as the Registrant remains subject to the requirements of Rule 30b1-4 under the Investment Company Act and discloses that the Registrant’s proxy voting record is available on or through its website.

9. See General Instruction F regarding Incorporation by Reference.

10. Every annual report filed under the Exchange Act by a business development company must contain the information required by Instructions 4.b and 4.h.

Part C – OTHER INFORMATION

Item 25. Financial Statements and Exhibits

List all financial statements and exhibits filed as part of the registration statement.

1. Financial statements.

Instruction. Identify those financial statements that are included in Parts A and B of the registration statement.

2. Exhibits.

Subject to General Instruction F regarding incorporation by reference and Rule 483 under the Securities Act [17 CFR 230.483], file the exhibits listed below as part of the registration statement. Letter or number the exhibits in the sequence indicated, unless otherwise required by Rule 483. Reflect any exhibit incorporated by reference in the list below and identify the previously filed document containing the incorporated material.

- a. Copies of the charter as now in effect.
- b. Copies of the existing bylaws or instruments corresponding thereto.
- c. Copies of any voting trust agreement with respect to more than five percent of any class of equity securities of the Registrant.
- d. Copies of the constituent instruments defining the rights of the holders of the securities.
- e. A copy of the document setting forth the Registrant's dividend reinvestment plan, if any.
- f. Copies of the constituent instruments defining the rights of the holders of long-term debt of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed (The instrument relating to any class of long-term debt of the Registrant or any subsidiary need not be filed if the total amount of securities authorized thereunder amounts to less than two percent of the total assets of the Registrant and its subsidiaries on a consolidated basis, and if the Registrant files an agreement to furnish such copies to the Commission upon request.).

- g. Copies of all investment advisory contracts relating to the management of the assets of the Registrant.
- h. Copies of each underwriting or distribution contract between the Registrant and a principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers.
- i. Copies of all bonus, profit sharing, pension, or other similar contracts or arrangements wholly or partly for the benefit of directors or officers of the Registrant in their capacity as such (a reasonably detailed description of any plan that is not set forth in a formal document should be furnished).
- j. Copies of all custodian agreements and depository contracts entered into in conformance with Section 17(f) of the Investment Company Act or rules thereunder with respect to securities and similar investments of the Registrant, including the schedule of remuneration.
- k. Copies of all other material contracts not made in the ordinary course of business that are to be performed in whole or in part at or after the date of filing the registration statement.
- l. An opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will be legally issued, fully paid, and nonassessable.
- m. If a non-resident director, officer, investment adviser, or expert named in the registration statement has executed a consent to service of process within the United States, a copy of that consent to service.
- n. Copies of any other opinions, appraisals, or rulings, and consents to their use, relied on in preparing the registration statement, and consents to the use of accountants' reports relating to audited financial statements required by Section 7 of the Securities Act.
- o. All financial statements omitted from Items 8.6 or 24.
- p. Copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the underwriter, adviser, promoter, or initial stockholders and written assurance from the promoters or initial stockholders that their purchases were made for investment purposes without any present intention of reselling.
- q. Copies of the model plan used in the establishment of any retirement plan in conjunction with which the Registrant offers its securities, any instructions to it, and any other documents making up the model plan (such form(s) should disclose the costs and fees charged in connection with the plan).
- r. Copies of any codes of ethics adopted under Rule 17j-1 under the Investment Company Act and currently applicable to the Registrant (*i.e.*, the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state the reason (*e.g.*, the Registrant is a Money Market Fund).

Instructions.

1. Subject to the rules on incorporation by reference and Instruction 2 below, the foregoing exhibits shall be filed as a part of the registration statement. Exhibits required by paragraphs 2.h, 2.l, 2.n, and 2.o above need to be filed only as part of a Securities Act registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits. The reference shall include the form, file number and date of the previous filing, and the exhibit number (*i.e.*, exhibit 2.a, 2.b, etc.) under which the exhibit was previously filed.

2. A Registrant need not file an exhibit as part of a post-effective amendment, if the exhibit has been filed in the Registrant's initial registration statement or in a previous post-effective amendment, unless there has been a change in the exhibit, or unless the exhibit is a copy of a consent required by Section 7 of the Securities Act or is a financial statement omitted from Items 8.6 or 24. The reference to this exhibit shall include the number of the previous filing (*e.g.*, pre-effective amendment No. 1) where such exhibit was filed.

3. If an exhibit to a registration statement (other than an opinion or consent), filed in preliminary form, has been changed (1) only to insert information as to interest, dividend or conversion rates, redemption or conversion prices, purchase or offering prices, underwriters' or dealers' commissions, names, addresses or participation of underwriters or similar matters, which information appears elsewhere in an amendment to the registration statement or a prospectus filed pursuant to Rule 424(b) under the Securities Act or (2) to correct typographical errors, insert signatures or make other similar immaterial changes, then, notwithstanding any contrary requirement of any rule or form, the Registrant need not refile the exhibit as so amended. Any incomplete exhibit may not, however, be incorporated by reference into any subsequent filing under any Act administered by the Commission. If an exhibit required to be executed (*e.g.*, an underwriting agreement) is filed in final form, a copy of an executed copy shall be filed.

4. Schedules (or similar attachments) to the exhibits required by this Item are not required to be filed provided that they do not contain information material to an investment or voting decision and that information is not otherwise disclosed in the exhibit or the disclosure document. Each exhibit filed must contain a list briefly identifying the contents of all omitted schedules. Registrants need not prepare a separate list of omitted information if such information is already included within the exhibit in a manner that conveys the subject matter of the omitted schedules and attachments. In addition, the registrant must provide a copy of any omitted schedule to the Commission or its staff upon request.

5. The registrant may redact information from exhibits required to be filed by this Item if disclosure of such information would constitute a clearly unwarranted invasion of personal privacy (*e.g.*, disclosure of bank account numbers, social security numbers, home addresses and similar information).

6. The registrant may redact provisions or terms of exhibits required to be filed by

paragraph k. of this Item if those provisions or terms are both (1) not material and (2) would likely cause competitive harm to the registrant if publicly disclosed. If it does so, the registrant should mark the exhibit index to indicate that portions of the exhibit or exhibits have been omitted and include a prominent statement on the first page of the redacted exhibit that certain identified information has been excluded from the exhibit because it is both (1) not material and (2) would likely cause competitive harm to the registrant if publicly disclosed. The registrant also must indicate by brackets where the information is omitted from the filed version of the exhibit.

If requested by the Commission or its staff, the registrant must promptly provide an unredacted copy of the exhibit on a supplemental basis. The Commission staff also may request the registrant to provide its materiality and competitive harm analyses on a supplemental basis. Upon evaluation of the registrant's supplemental materials, the Commission or its staff may request the registrant to amend its filing to include in the exhibit any previously redacted information that is not adequately supported by the registrant's materiality and competitive harm analyses. The registrant may request confidential treatment of the supplemental material pursuant to Rule 83 [17 CFR 200.83] while it is in the possession of the Commission or its staff. After completing its review of the supplemental information, the Commission or its staff will return or destroy it at the request of the registrant, if the registrant complies with the procedures outlined in Rule 418 [17 CFR 230.418].

7. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active link to an exhibit that is filed with the registration statement or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR. If the registration statement is amended, each amendment must include active hyperlinks to the exhibits required with the amendment.

Item 26. Marketing Arrangements

Briefly describe any arrangements known to the Registrant or to any person named in response to Item 5, or to any person specified in Item 19.2, made for any of the following purposes:

1. to limit or restrict the sale of other securities of the same class as those to be offered for the period of distribution;
2. to stabilize the market for any of the securities to be offered; or
3. to hold each underwriter or dealer responsible for the distribution of his or her participation.

Instruction. If the answer to this Item is contained in an exhibit, the Item may be answered by cross-reference to the relevant paragraph(s) of the exhibit.

Item 27. Other Expenses of Issuance and Distribution

Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities being registered, other than underwriting discounts and commissions. If any of the securities being registered are to be offered for the account of securityholders, indicate the portion of expenses to be borne by securityholders.

Instruction. Insofar as practicable, separately itemize registration fees, federal taxes, state taxes and fees, trustees' and transfer agents' fees, costs of printing and engraving, rating agency fees, and legal and accounting fees. The information may be given subject to future contingencies. Provide estimates if the amounts of any items are not known.

Item 28. Persons Controlled by or Under Common Control

Furnish a list or diagram of all persons directly or indirectly controlled by, or under common control with, the Registrant, and as to each of these persons indicate (1) if a company, the state or other jurisdiction under whose laws it is organized, and (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it.

Instructions.

1. The list or diagram shall include the Registrant and shall show clearly the relationship of each company named to the Registrant and to other companies named. If the company is controlled by the direct ownership of its securities by two or more persons, so indicate by appropriate cross-reference.

2. Identify, by appropriate symbols: (1) subsidiaries for which separate financial statements are filed; (2) subsidiaries included in the respective consolidated financial statements; (3) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (4) other subsidiaries, indicating briefly why statements of these subsidiaries are not filed.

Item 29. Number of Holders of Securities

State in substantially the tabular form indicated, as of a specified date within 90 days prior to the date of filing, the number of record holders of each class of securities of the Registrant.

(1)	(2)
Title of Class	Number of Record Holders

Item 30. Indemnification

State the general effect of any contract, arrangement, or statute under which any director, officer, underwriter, or affiliated person of the Registrant is insured or indemnified in any

manner against any liability that may be incurred in such capacity, other than insurance provided by any member of the board of directors, officer, underwriter, or affiliated person for his or her own protection.

Instruction. In responding to this Item, the Registrant should note the requirements of Rules 461(c) and 484 under the Securities Act [17 CFR 230.461 and 230.484] and Section 17 of the Investment Company Act. (See Investment Company Act Rel. No. 11330 (Sept. 4, 1980) [45 FR 62423 (Sept. 19, 1980)] and Investment Company Act Rel. No. 7221 (June 9, 1972) [37 FR 12790 (June 29, 1972)].)

Item 31. Business and Other Connections of Investment Adviser

Describe briefly any other business, profession, vocation, or employment of a substantial nature in which each investment adviser of the Registrant, and each director, executive officer, or partner of any such investment adviser, is or has been, at any time during the past two fiscal years, engaged for his or her own account or in the capacity of director, officer, employee, partner, or trustee.

Instructions.

1. State the name and principal business address of any company with which any person specified above is connected in the capacity of director, officer, employee, partner, or trustee and the nature of the connection.
2. The names of investment advisory clients need not be provided.
3. For purposes of this Item, the term “executive officer” means the investment adviser’s president, any other officer who performs a policy-making function for the investment adviser in connection with its management of the closed-end fund, or any other person who performs a similar policy-making function for the investment adviser. Executive officers of subsidiaries of the investment adviser may be deemed executive officers of the investment adviser, if they perform such policy-making functions for the investment adviser.

Item 32. Location of Accounts and Records

Furnish the name and address of each person maintaining physical possession of each account, book, or other document required to be maintained by Section 31(a) of the Investment Company Act and the rules thereunder.

Instruction. The Registrant may omit this information to the extent it is provided in its most recent report on Form N-CEN [17 CFR 249.330].

Item 33. Management Services

Furnish a summary of the substantive provisions of any management-related service contract not discussed in Part A or B of the registration statement (because the contract was not

believed to be of interest to a purchaser of the Registrant's securities), indicating the parties to the contract, the total dollars paid, and by whom, for the last three fiscal years.

Instructions.

1. The instructions to Item 20.4 of this Form shall also apply to this Item.
2. Information need not be provided for any service for which total payments of less than \$5,000 were made during each of the last three fiscal years.

Item 34. Undertakings

Furnish the following undertakings in substantially the following form in all registration statements filed under the Securities Act, as applicable:

1. An undertaking to suspend the offering of shares until the prospectus is amended if (1) subsequent to the effective date of its registration statement, the net asset value declines more than ten percent from its net asset value as of the effective date of the registration statement or (2) the net asset value increases to an amount greater than its net proceeds as stated in the prospectus.

Provided, however, that this paragraph does not apply if the registration statement is filed pursuant to General Instruction A.2 of this Form to register an offering in reliance on Rule 415 under the Securities Act.

2. An undertaking to file a post-effective amendment with certified financial statements showing the initial capital received before accepting subscriptions from more than 25 persons, if the Registrant proposes to raise its initial capital under Section 14(a)(3) of the Investment Company Act.

3. If the securities are being registered in reliance on Rule 415 under the Securities Act, an undertaking:

a. to file, during any period in which offers or sales are being made, a post-effective amendment to the registration statement:

- (1) to include any prospectus required by Section 10(a)(3) of the Securities Act;
- (2) to reflect in the prospectus any facts or events after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum

aggregate offering price set forth in the “Calculation of Registration Fee” table in the effective registration statement.

(3) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

Provided, however, that paragraphs a(1), a(2), and a(3) of this section do not apply if the registration statement is filed pursuant to General Instruction A.2 of this Form and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference into the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

b. that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of those securities at that time shall be deemed to be the initial bona fide offering thereof;

c. to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering;

d. that, for the purpose of determining liability under the Securities Act to any purchaser:

(1) if the Registrant is relying on Rule 430B [17 CFR 230.430B]:

(A) Each prospectus filed by the Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (x), or (xi) for the purpose of providing the information required by Section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or

modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date; or

(2) if the Registrant is subject to Rule 430C [17 CFR 230.430C]: each prospectus filed pursuant to Rule 424(b) under the Securities Act as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

e. that for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of securities:

The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to the purchaser:

(1) any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424 under the Securities Act;

(2) free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrants;

(3) the portion of any other free writing prospectus or advertisement pursuant to Rule 482 under the Securities Act [17 CFR 230.482] relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(4) any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

4. If the Registrant is filing a registration statement permitted by Rule 430A under the Securities Act, an undertaking that:

a. for the purpose of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant under Rule 424(b)(1) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective; and

b. for the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of the securities at that time shall be deemed to be the initial bona fide offering thereof.

5. Filings Incorporating Subsequent Exchange Act Documents by Reference. Include the following if the registration statement incorporates by reference any Exchange Act document filed subsequent to the effective date of the registration statement:

The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference into the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

6. Request for acceleration of effective date or filing of registration statement becoming effective upon filing. Include the following if acceleration is requested of the effective date of the registration statement pursuant to Rule 461 under the Securities Act, or if a registration statement filed pursuant to General Instruction A.2 of this Form will become effective upon filing with the Commission pursuant to Rule 462(e) or (f) under the Securities Act, and:

a. Any provision or arrangement exists whereby the Registrant may indemnify a director, officer or controlling person of the Registrant against liabilities arising under the Securities Act, or

b. The underwriting agreement contains a provision whereby the Registrant indemnifies the underwriter or controlling persons of the underwriter against such liabilities and a director, officer or controlling person of the Registrant is such an underwriter or controlling person thereof or a member of any firm which is such an underwriter, and

c. The benefits of such indemnification are not waived by such persons:

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

7. An undertaking to send by first class mail or other means designed to ensure equally prompt delivery, within two business days of receipt of a written or oral request, any prospectus or Statement of Additional Information.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933 and/or the Investment Company Act of 1940, the Registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of _____, and State of _____, on the _____ day of _____, _____.

Registrant

By _____

Signature

Title

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following person in the capacities and on the dates indicated.

Signature

Title

Date

45. Effective August 1, 2021, amend Form 24F-2 (referenced in §274.24) by:
- a. Amending Item 2 to add “and EDGAR identifier” after the word “name”;
 - b. Amending Item 5 to add “(if calculating on a class-by-class or series-by-series basis, provide the EDGAR identifier for each such class or series):”;
 - c. Adding Item 10;
 - d. Revising paragraph A.1. of the “INSTRUCTIONS” section; and
 - e. Revising paragraph A.3. of the “INSTRUCTIONS” section.

The addition and revisions read as follows:

Note: The text of Form 24F-2 does not, and these amendments will not, appear in the *Code of Federal Regulations*.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 24F-2

**Annual Filing Under Rule 24f-2
of the Investment Company Act of 1940**

* * * * *

2. The name and EDGAR identifier of each series or class of securities for which this Form is filed (If the Form is being filed for all series and classes of securities of the issuer, check the box but do not list series of classes):

* * * * *

5. Calculation of registration fee (if calculating on a class-by-class or series-by-series basis, provide the EDGAR identifier for each such class or series):

* * * * *

10. Explanatory Notes (if any): The issuer may provide any information it believes would be helpful in understanding the information reported in response to any item of this Form. To the extent responses relate to a particular item, provide the item number(s), as applicable.

* * * * *

INSTRUCTIONS

A. * * *

1. This Form should be used by an open-end management investment company, closed-end management company that makes periodic repurchase offers pursuant to §270.23c-3(b) of this chapter, face amount certificate company, or unit investment trust (“issuer”) for annual filings required by rule 24f-2 under the Investment Company Act of 1940 [15 U.S.C. 80a] (“Investment Company Act”). If the issuer has registered more than one class or series of securities on the same registration statement under the Securities Act of 1933 [15 U.S.C. 77a-aa] (“Securities Act”), the issuer may file a single Form 24F-2 for those classes or series that have the same fiscal year end. Such an issuer may calculate its fees based on aggregate net sales of the series having the same fiscal year end. An issuer choosing to calculate registration fees on a class-by-class or series-by-series basis should make a single filing consisting of a separate Form 24F-2 for each class or series in a single EDGAR document and provide the EDGAR identifier for each such class or series.

* * * * *

3. Pursuant to rule 101(a)(1)(iv) of Regulation S-T [17 CFR 232.101(a)(1)(iv)] this Form must be submitted in electronic format using the Commission’s Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system. Consult the EDGAR Filer Manual and Appendices for EDGAR filing instructions.

* * * * *

46. Amend Form N-CSR (referenced in §§ 249.331 and 274.128) by adding new paragraph 4 to General Instruction C to read as follows:

Note: The text of Form N-CSR does not, and these amendments will not, appear in the Code of Federal Regulations.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM N-CSR

**CERTIFIED SHAREHOLDER REPORT OF REGISTERED MANAGEMENT
INVESTMENT COMPANIES**

* * * * *

GENERAL INSTRUCTIONS

C. * * *

4. *Interactive Data File.* An Interactive Data File as defined in Rule 11 of Regulation S-T [17 CFR 232.11] is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S-T [17 CFR 232.405] by a closed-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) to the extent required by Rule 405 of Regulation S-T.

By the Commission.

Dated: April 8, 2020.

Vanessa A. Countryman
Secretary

[FR Doc. 2020-07790 Filed: 5/29/2020 8:45 am; Publication Date: 6/1/2020]