

For the Nuclear Regulatory Commission.
Brenda Jo. Shelton,
NRC Clearance Officer, Office of Information Services.
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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 482, SEC File No. 270-508, OMB Control No. 3235-0565.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Like most issuers of securities, when an investment company¹ ("fund") offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act of 1933, as amended (the "Securities Act"). In recognition of the particular problems faced by funds that continually offer securities and wish to advertise their securities, the Commission has previously adopted advertising safe harbor rules. The most important of these is rule 482 under the Securities Act, which, under certain circumstances, permits funds to advertise investment performance data, as well as other information. Rule 482 advertisements are deemed to be "prospectuses" under section 10(b) of the Securities Act.²

Rule 482 contains certain requirements regarding the disclosure that funds are required to provide in qualifying advertisements. These requirements are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. For example, a fund is required to include disclosure advising investors to consider the fund's

investment objectives, risks, charges and expenses, and other information described in the fund's prospectus or accompanying profile (if applicable), and highlighting the availability of the fund's prospectus. In addition, rule 482 advertisements that include performance data of open-end funds or insurance company separate accounts offering variable annuity contracts are required to include certain standardized performance information, information about any sales loads or other nonrecurring fees, and a legend warning that past performance does not guarantee future results. Such funds including performance information in rule 482 advertisements are also required to make available to investors month-end performance figures via Web site disclosure or by a toll-free telephone number, and to disclose the availability of the month-end performance data in the advertisement. The rule also sets forth requirements regarding the prominence of certain disclosures, requirements regarding advertisements that make tax representations, requirements regarding advertisements used prior to the effectiveness of the fund's registration statement, requirements regarding the timeliness of performance data, and certain required disclosures by money market funds.

Rule 482 advertisements must be filed with the Commission or, in the alternative, with NASD Regulation, Inc. ("NASDR").³ This information collection differs from many other federal information collections that are primarily for the use and benefit of the collecting agency.

As discussed above, rule 482 contains requirements that are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. The Commission is concerned that in the absence of such provisions fund investors may be misled by deceptive rule 482 performance advertisements and may rely on less-than-adequate information when determining in which funds they should invest their money. As a result, the Commission believes it is beneficial for funds to provide investors with balanced information in fund advertisements in order to allow investors to make better-informed decisions.

The Commission estimates that 56,936 responses are filed annually pursuant to rule 482 by 4,384 investment companies offering 37,500 portfolios. Respondents consist of all the investment companies that take advantage of the safe harbor offered by the rule for their advertisements. The burden associated with rule 482 is presently estimated to be 5.16 hours per response. The hourly burden is therefore approximately 293,790 hours (56,936 responses times 5.16 hours per response).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Cost burden is the cost of services purchased to comply with rule 482, such as for the services of computer programmers, outside counsel, financial printers, and advertising agencies. The Commission attributes no cost burden to rule 482.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: March 22, 2005.

Margaret H. McFarland,
Deputy Secretary.
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¹ "Investment company" refers to both investment companies registered under the Investment Company Act of 1940, as amended, and business development companies.

² 15 U.S.C. 77j(b).

³ See Rule 24b-3 under the Investment Company Act [17 CFR 270.24b-3], which provides that any sales material, including rule 482 advertisements, shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with the NASDR.