

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 239, 249, 270, and 274

[Release Nos. 33–8458; 34–50227; IC–26533; File No. S7–12–04]

RIN 3235–AJ16

### Disclosure Regarding Portfolio Managers of Registered Management Investment Companies

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; request for comments on Paperwork Reduction Act burden estimates.

**SUMMARY:** The Securities and Exchange Commission is adopting amendments to its forms under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 to improve the disclosure provided by registered management investment companies regarding their portfolio managers. The amendments extend the existing requirement that a registered management investment company provide basic information in its prospectus regarding its portfolio managers to include the members of management teams. The amendments also require a registered management investment company to disclose additional information about its portfolio managers, including other accounts that they manage, compensation structure, and ownership of securities in the investment company.

**DATES:** *Effective Date:* October 1, 2004.

*Compliance Date:* See Section II.I. of this release for information on compliance dates.

*Comment Date:* Comments regarding the collection of information requirements within the meaning of the Paperwork Reduction Act of 1995 of Forms N–1A and N–CSR should be received by October 1, 2004.

**ADDRESSES:** Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's *Internet comment form* (<http://www.sec.gov/rules/final.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7–12–04 on the subject line; or
- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

#### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary,

Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number S7–12–04. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/final.shtml>). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Lamba, Attorney, or Christopher P. Kaiser, Branch Chief, Office of Disclosure Regulation, Division of Investment Management, (202) 942–0721, at the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0506.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission ("Commission") is adopting amendments to Form N–1A,<sup>1</sup> Form N–2,<sup>2</sup> and Form N–3,<sup>3</sup> registration forms used by management investment companies to register under the Investment Company Act of 1940 ("Investment Company Act") and to offer their securities under the Securities Act of 1933 ("Securities Act"); amendments to Form N–CSR<sup>4</sup> under the Investment Company Act and the Securities Exchange Act of 1934 ("Exchange Act"), the form used by registered management investment companies to file certified shareholder reports with the Commission; and an amendment to Rule 30a–2<sup>5</sup> under the Investment Company Act.<sup>6</sup>

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<sup>3</sup> 17 CFR 239.17a and 274.11b.

<sup>4</sup> 17 CFR 249.331 and 274.128.

<sup>5</sup> 17 CFR 270.30a–2.

<sup>6</sup> The Commission proposed these amendments in March 2004. Investment Company Act Release No. 26383 (March 11, 2004) [69 FR 12752 (March 17, 2004)] ("Proposing Release").

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## I. Introduction

Registered management investment companies ("funds")<sup>7</sup> typically are externally managed by an investment adviser, to which they pay an advisory fee from fund assets. The investment adviser in turn employs and compensates the individuals who act as portfolio managers for the fund. Our rules require funds to disclose in their prospectuses certain information concerning their portfolio managers. Fund prospectuses are required to include the name, title, length of service, and business experience of the individuals who are primarily responsible for the day-to-day management of the fund.<sup>8</sup> If a committee, team, or other group is jointly and primarily responsible for management of the fund, the fund must provide disclosure to the effect that the fund's investments are managed by that group, but need not provide the names of the members of the group.<sup>9</sup>

Recently, several areas of concern have been identified with respect to fund portfolio managers. In particular, concerns have been raised regarding the following:

- The absence of disclosure about:
  - The individual members of portfolio management teams;
  - The compensation of portfolio managers; and

<sup>7</sup> Management investment companies typically issue shares representing an undivided proportionate interest in a changing pool of securities, and include open-end and closed-end companies. See T. Lemke, G. Lins, A. Smith III, Regulation of Investment Companies, Vol. I, ch. 4, § 4.04, at 4–5 (2002). An open-end company is a management company that is offering for sale or has outstanding any redeemable securities of which it is the issuer. A closed-end company is any management company other than an open-end company. See Section 5 of the Investment Company Act [15 U.S.C. 80a–5]. Open-end companies generally offer and sell new shares to the public on a continuous basis. Closed-end companies generally engage in traditional underwritten offerings of a fixed number of shares and, in most cases, do not offer their shares to the public on a continuous basis.

<sup>8</sup> Item 5(a)(2) of Form N–1A; Item 9.1.c of Form N–2.

<sup>9</sup> Instruction 2 to Item 5(a)(2) of Form N–1A; Instruction 2 to Item 9.1.c. of Form N–2.

◦ Portfolio managers' holdings in the funds that they manage; and

- Potential conflicts of interest between the interests of shareholders in a fund that a portfolio manager oversees, and the interests of other clients and investment vehicles, such as hedge funds and pension funds, that a portfolio manager may also oversee.<sup>10</sup>

In order to address these concerns, earlier this year the Commission proposed rules intended to provide greater transparency regarding portfolio managers, their incentives in managing a fund, and potential conflicts of interest ("Proposing Release"). These proposals were designed to assist investors in evaluating fund management and making investment decisions.

The Commission received 34 comment letters relating to the proposals. The commenters generally supported the proposals, although some expressed concerns regarding portions of the disclosure or suggested changes. Today, the Commission is adopting these proposals, with modifications to address commenters' concerns. The amendments that the Commission is adopting will:

- Require a fund to identify in its prospectus each member of a committee, team, or other group of persons that is jointly and primarily responsible for the day-to-day management of the fund's portfolio (or, in the case of a team with more than five such members, the five members with the most significant responsibility for the day-to-day management of the fund's portfolio);
- Require a fund to provide information in its Statement of Additional Information ("SAI")<sup>11</sup> regarding other accounts managed by any of its portfolio managers, including a description of material conflicts of interest that may arise in connection with simultaneously managing the fund and the other accounts;
- Require a fund to disclose in its SAI the structure of, and the method used to determine, the compensation of each portfolio manager;
- Require a fund to disclose in its SAI each portfolio manager's ownership of securities in the fund; and
- Require a closed-end fund to provide disclosure regarding its

portfolio managers in its reports on Form N-CSR.<sup>12</sup>

## II. Discussion

### A. Identification of Portfolio Management Team Members

The Commission is adopting, with modifications to address commenters' concerns, proposed amendments to Forms N-1A and N-2, the registration forms for mutual funds and closed-end funds, that will require those funds to identify in their prospectuses each member of a committee, team, or other group of persons associated with the fund or its investment adviser that is jointly and primarily responsible for the day-to-day management of the fund's portfolio.<sup>13</sup> The amendments we are adopting will require funds to state the name, title, length of service, and business experience of each member of a portfolio management team.

We are also adopting amendments to Form N-3, the registration form for insurance company managed separate accounts that issue variable annuity contracts, to require disclosure regarding portfolio managers, including members of portfolio management teams, similar to the disclosure that will be required by Forms N-1A and N-2.<sup>14</sup> Currently, Form N-3 does not require disclosure about portfolio managers.

Commenters generally supported the Commission's proposal to require improved disclosure about members of portfolio management teams. However, several commenters expressed concern that, while a requirement to identify the members of a portfolio management team may be appropriate for teams that consist of a relatively small number of members, the disclosure could become lengthy and less meaningful in the case of larger teams. Some of these commenters noted that some portfolio management teams consist of both portfolio managers, who have authority to make management decisions, and analysts and other junior members, who have no decision-making authority. These commenters argued that the proposed disclosure requirement could be interpreted to require disclosure of

every such junior member of a management team, which would result in lengthy disclosure that would have to be updated frequently, whenever the composition of the team changed. In addition, some commenters argued that a requirement to identify all members of a portfolio management team could inhibit an adviser's ability to change the composition of a team.

We note that, under the amendments we are adopting, disclosure is only required with respect to members of a management team who are jointly and primarily responsible for the day-to-day management of the fund's portfolio. To the extent that a fund is managed by a committee, team, or other group that includes additional members who are not jointly and primarily responsible for day-to-day management, identification of these individuals is not required. Thus, if a fund has a management team that includes analysts who make securities recommendations with respect to the portfolio, but do not have decision-making authority, these individuals would not have to be identified, unless they are jointly and primarily responsible for day-to-day management of the fund's portfolio. An analyst could be jointly and primarily responsible for day-to-day management if, for example, the individual who has decision-making authority over the fund's portfolio routinely adopts the analyst's recommendations.

We are, however, modifying our proposal in response to the commenters' concerns to provide that if more than five persons are jointly and primarily responsible for the day-to-day management of a fund's portfolio, the fund need only provide the required information for the five persons with the most significant responsibility.<sup>15</sup> This will permit funds with large numbers of persons that are jointly and primarily responsible for portfolio management to provide information about the key decision-makers rather than lengthy disclosure about numerous individuals that would obscure other important information in the prospectus.

The determination of the members of a portfolio management team who are jointly and primarily responsible for the day-to-day management of a fund's portfolio will depend on the facts and circumstances of the particular fund. For example, in the case of a fund with a large management team, where a single "lead member" is responsible for implementing and monitoring the overall portfolio management of the

<sup>10</sup> See *Proposing Release*, *supra* note 6, 69 FR at 12752–12753, nn. 8–13 and accompanying text (discussing concerns about portfolio managers).

<sup>11</sup> The SAI is part of a fund's registration statement and contains information about a fund in addition to that contained in the prospectus. The SAI is required to be delivered to investors upon request and is available on the Commission's Electronic Data Gathering, Analysis, and Retrieval System.

<sup>12</sup> A fund is currently required to provide portfolio manager disclosure regardless of whether the portfolio manager is employed by the investment adviser or a subadviser. This would continue under the requirements we are adopting. See Section 2(a)(20)(B) of the Investment Company Act [15 U.S.C. 80a-2(a)(20)(B)] ("investment adviser" includes any person who provides investment advice to an investment company under a contract with an investment adviser to the company).

<sup>13</sup> Item 5(a)(2) and Instruction 2 to Item 5(a)(2) of Form N-1A; Item 9.1.c and Instruction to Item 9.1.c of Form N-2.

<sup>14</sup> Item 6(e) of Form N-3.

<sup>15</sup> Instruction 2 to Item 5(a)(2) of Form N-1A; Instruction to Item 9.1.c of Form N-2; Instruction 2 to Item 6(e) of Form N-3.

fund, it may be appropriate to identify this single "lead member" as the portfolio manager. Some funds with large management teams are "research-driven" funds that may have portfolio management teams with as many as 50 members, each of whom is allocated a specified portion of the portfolio over which he or she has independent responsibility for research, stock selection, and portfolio construction. A research-driven fund may have a coordinator with responsibility for allocating the portfolio among the various managers and analysts, implementing trades on behalf of analysts on the team, reviewing the overall composition of the portfolio to ensure its compliance with its stated investment objectives and strategies, and monitoring cash flows. In such a case, it may be appropriate for a fund to identify the coordinator as its portfolio manager. If a research-driven fund does not have such a portfolio coordinator or similar position, it may be appropriate to provide the required information for the five persons with the most significant responsibility for the day-to-day management of the fund's portfolio, for example, the managers with the largest percentages of assets under management.

The amendments also require a fund to provide a brief description of each member's role on the management team (e.g., lead member).<sup>16</sup> We are modifying the proposal to clarify that a fund's description of a member's role on a committee, team, or group must include 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 fund's portfolio.<sup>17</sup> This responds to commenters' suggestions that we require additional disclosure regarding the structure of each management team. The amended requirement is intended to provide investors with a clearer understanding of what an identified portfolio manager does and does not do in the course of day-to-day management of the fund, and the ways in which the responsibilities of any identified portfolio manager relate to those of other members of a portfolio

management team, including members who may not be identified in the prospectus as portfolio managers. It will also assist investors in funds with large management teams, such as research-driven funds, in understanding how the responsibilities of an identified portfolio manager may differ from those of a manager who manages a fund on his or her own or with a small team of other managers. For example, if a portfolio management team for a balanced fund has one team member who is responsible only for the overall allocation of the fund's assets among equities, bonds, and money market instruments, and other team members who are responsible only for selection of securities within a particular segment of the fund, the fund's disclosure should describe these limitations in describing each member's role.

#### *B. Disclosure Regarding Other Accounts Managed and Potential Conflicts of Interest*

We are adopting, with several modifications to address commenters' concerns, amendments that require a fund to provide disclosure in its SAI regarding other accounts for which the fund's portfolio manager is primarily responsible for the day-to-day portfolio management.<sup>18</sup> If a committee, team, or other group that includes the portfolio manager is jointly and primarily responsible for the day-to-day management of an account, the fund is required to include that account in responding to the disclosure requirement.<sup>19</sup> Commenters generally supported this disclosure requirement, which is designed to enable investors to assess the conflicts of interest to which a portfolio manager may be subject as a result of managing the fund and other portfolios, such as other registered investment companies and hedge funds.<sup>20</sup>

This disclosure requirement, as well as the disclosure requirements discussed below regarding compensation structure and ownership of fund securities,<sup>21</sup> applies to any portfolio manager who is required to be identified in the prospectus. If a fund

identifies more than five persons as portfolio managers in its prospectus, it need only provide the required disclosure regarding other accounts managed, compensation, and securities ownership for the five persons with the most significant responsibility for the day-to-day management of the fund's portfolio.

As adopted, the amendments require a fund to disclose the number of other accounts managed by a portfolio manager, and the total assets in the accounts, within each of the following categories: Registered investment companies; other pooled investment vehicles; and other accounts.<sup>22</sup> For each such category, a fund is also required to disclose the number of accounts and the total assets in the accounts with respect to which the advisory fee is based on account performance.<sup>23</sup> We had proposed an additional category of "other investment companies." A commenter suggested, however, that breaking out "other investment companies" as a separate category would not be helpful in enabling investors to assess a portfolio manager's potential conflicts of interest. We agree and are eliminating "other investment companies" as a separate category. Accounts that would have been included in this category will now be included in "other pooled investment vehicles."

The amendments, as adopted, also require a fund to describe any material conflicts of interest that may arise in connection with the portfolio manager's management of the fund's investments, on the one hand, and the investments of the other accounts, on the other.<sup>24</sup> This description would include, for example, material conflicts between the investment strategy of the fund and the investment strategy of the other accounts managed by the portfolio manager and material conflicts in allocation of investment opportunities between the fund and such other accounts. We have limited the conflicts disclosure requirement to material conflicts of interest in order to address commenters' concerns that the proposed requirement would encourage funds to provide an overinclusive, boilerplate list of potential conflicts. A conflict would be material if there is a substantial likelihood that disclosure of the conflict would be viewed by a reasonable investor as significantly altering the "total mix" of information available

<sup>16</sup> Instruction 2 to Item 5(a)(2) of Form N-1A; Instruction to Item 9.1.c of Form N-2; Instruction 2 to Item 6(e) of Form N-3. The amendments also delete current Instructions 3 and 4 to Item 5(a)(2) of Form N-1A, which provided additional guidance as to the disclosure obligations of funds for which day-to-day management responsibilities are shared between a portfolio management team and an individual.

<sup>17</sup> Instruction 2 to Item 5(a)(2) of Form N-1A; Instruction 2 to Item 9.1.c of Form N-2; Instruction 2 to Item 6(e) of Form N-3.

<sup>18</sup> Item 15(a) of Form N-1A; Item 21.1 of Form N-2; Item 22(a) of Form N-3.

<sup>19</sup> Instruction 2 to Item 15(a) of Form N-1A; Instruction 2 to Item 21.1 of Form N-2; Instruction 2 to Item 22(a) of Form N-3.

<sup>20</sup> The disclosure requirement applies to accounts managed in a personal capacity as well as accounts managed in a professional capacity. Conflicts of interest may also arise in connection with the manager's management of such accounts.

<sup>21</sup> See Section I.I.C. "Disclosure of Portfolio Manager Compensation Structure" and Section I.I.D. "Disclosure of Securities Ownership of Portfolio Managers," *infra*.

<sup>22</sup> Item 15(a)(2) of Form N-1A; Item 21.1.b of Form N-2; Item 22(a)(ii) of Form N-3.

<sup>23</sup> Item 15(a)(3) of Form N-1A; Item 21.1.c of Form N-2; Item 22(a)(iii) of Form N-3.

<sup>24</sup> Item 15(a)(4) of Form N-1A; Item 21.1.d of Form N-2; Item 22(a)(iv) of Form N-3.

about the fund.<sup>25</sup> In our view, this would include, for example, a conflict that a reasonable investor would consider likely to affect the manager's professional judgment with respect to management of the fund.

We are not adopting our proposal to require a fund to include a description of the policies and procedures used by the fund or its investment adviser to address conflicts of interest.<sup>26</sup> We agree with several commenters who argued that requiring disclosure of these policies and procedures would result in lengthy disclosure that most investors would not find useful. We note that our recently adopted compliance rules require investment advisers to implement policies and procedures that address conflicts arising from management of multiple funds and accounts, such as the allocation of investment opportunities and the allocation of aggregated trades.<sup>27</sup> The requirement to adopt policies and procedures to address conflicts, coupled with the disclosure of other accounts managed and the material conflicts of interest that may arise, should sufficiently address potential conflicts of interest without burdening investors with extensive, technical disclosure. We emphasize that fund boards of directors and investment advisers are responsible for addressing conflicts of interest that may arise from a portfolio manager's management of multiple accounts, and the disclosure we are requiring does not diminish this responsibility.<sup>28</sup>

Finally, we requested comment in the Proposing Release on whether to prohibit portfolio managers of funds from managing certain types of accounts, such as hedge funds. We have determined not to do so, because we agree with several commenters that a

prohibition could reduce investors' access to talented portfolio managers and could have a particularly disruptive effect on smaller investment management firms that may not have the resources to maintain separate staffs for different types of accounts. We believe that the disclosure of other accounts managed and material conflicts of interest, together with the requirement in the compliance rules for policies and procedures to address conflicts, is a preferable approach to addressing conflicts of interest arising from side-by-side management of multiple accounts.

### C. Disclosure of Portfolio Manager Compensation Structure

We are adopting, with modifications to address commenters' concerns, a requirement that a fund provide disclosure in its SAI regarding the structure of, and the method used to determine, the compensation of its portfolio managers.<sup>29</sup> Commenters supported this proposal and agreed that it may help investors to better understand a portfolio manager's incentives in managing a fund and shed light on possible conflicts of interest that could arise when a portfolio manager manages other accounts.

The amendments require a description of the structure of, and the method used to determine, the compensation received by a fund's portfolio manager from the fund, its investment adviser, or any other source with respect to management of the fund and any other account included by the fund in response to the disclosure requirement described above regarding other accounts managed by the portfolio manager.<sup>30</sup> This disclosure requirement applies to any portfolio manager who is required to be identified in the prospectus. The amendments do not require disclosure of the value of compensation received by a portfolio manager.<sup>31</sup>

For purposes of the disclosure requirement, compensation includes, without limitation, salary, bonus, deferred compensation, and pension and retirement plans and arrangements, whether the compensation is cash or

non-cash.<sup>32</sup> We are modifying the proposal to permit funds to omit disclosure regarding group life, health, hospitalization, medical reimbursement, relocation, and pension and retirement plans and arrangements, 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.<sup>33</sup> We agree with several commenters who suggested that, while a portfolio manager may often receive certain benefits of this type as part of his or her overall compensation, requiring disclosure about these benefits would be of little or no value to investors in assessing whether the manager's interests are aligned with those of investors.

For each type of compensation (e.g., salary, bonus, deferred compensation, retirement plans and arrangements), a fund is required to 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 fund's pre- or after-tax performance over a certain period, and whether (and, if so, how) compensation is based on the value of assets held in the fund's portfolio.<sup>34</sup> This description is required to clearly disclose any differences between the method used to determine the portfolio manager's compensation with respect to the fund 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 fund, this must be disclosed.<sup>35</sup>

We have modified the proposal in order to elicit better disclosure of the basis on which a portfolio manager is compensated. We have made these changes based on commenters' suggestions that a fund should be required to disclose the specific metrics used to measure performance. We believe that where compensation is based on criteria such as performance,

<sup>25</sup> See *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976).

<sup>26</sup> Proposed Item 15(a)(4) of Form N-1A; proposed Item 21.1.d of Form N-2; proposed Item 22(a)(iv) of Form N-3.

<sup>27</sup> See Investment Company Act Release No. 26299 (Dec. 17, 2003) [68 FR 74714, 74716 (Dec. 24, 2003)] (adopting rule 206(4)-7 under the Investment Advisers Act of 1940 and rule 38a-1 under the Investment Company Act).

<sup>28</sup> See Investment Company Act Release No. 26323 (Jan. 15, 2004) [69 FR 3472, 3472-3473 (Jan. 23, 2004)] (discussing responsibility of independent directors to bring "a high degree of rigor and skeptical objectivity to the evaluation of [fund] management and its plans and proposals," particularly when evaluating conflicts of interest"); Mutual Fund Directors Forum, Report Of The Mutual Fund Directors Forum: Best Practices And Practical Guidance For Mutual Fund Directors 35-36 (July 2004) (recommending that a fund's board establish a process for identifying and reviewing conflicts of interest, including potential conflicts of interest that may arise between the fund and its adviser or affiliates due to other business activities of the adviser or affiliates).

<sup>29</sup> Item 15(b) of Form N-1A; Item 21.2 of Form N-2; Item 22(b) of Form N-3.

<sup>30</sup> See Section II.B, "Disclosure Regarding Other Accounts Managed and Potential Conflicts of Interest," *supra* (describing required disclosure regarding other accounts for which the fund's portfolio manager is primarily responsible); Instruction 3 to Item 15(b) of Form N-1A; Instruction 3 to Item 21.2 of Form N-2; Instruction 3 to Item 22(b) of Form N-3.

<sup>31</sup> Instruction 2 to Item 15(b) of Form N-1A; Instruction 2 to Item 21.2 of Form N-2; Instruction 2 to Item 22(b) of Form N-3.

<sup>32</sup> Instruction 2 to Item 15(b) of Form N-1A; Instruction 2 to Item 21.2 of Form N-2; Instruction 2 to Item 22(b) of Form N-3.

<sup>33</sup> Cf. Item 402(a)(7)(ii) of Regulation S-K [17 CFR 229.402(a)(7)(ii)] (permitting operating companies, in disclosing information about executive officers, to omit information regarding group life, health, hospitalization, medical reimbursement, or relocation plans that do not discriminate in scope, terms, or operation in favor of executive officers or directors of the registrant and that are available generally to all salaried employees).

<sup>34</sup> Item 15(b) of Form N-1A; Item 21.2 of Form N-2; Item 22(b) of Form N-3.

<sup>35</sup> Instruction 3 to Item 15(b) of Form N-1A; Instruction 3 to Item 21.2 of Form N-2; Instruction 3 to Item 22(b) of Form N-3.

requiring more detailed disclosure about the criteria may provide greater insight into a manager's incentives to manage a fund's portfolio in a certain way. First, we are requiring that the criteria on which each type of compensation is based be described with specificity. Second, we are clarifying that a fund must not only describe *whether* compensation is based on criteria such as fund pre- or after-tax performance over a certain time period, and the value of assets held in the fund's portfolio, but also how compensation is based on these criteria. For example, if compensation is based solely or in part on performance, a fund is required to identify any benchmark used to measure performance and state the length of the period over which performance is measured.

#### *D. Disclosure of Securities Ownership of Portfolio Managers*

We are adopting a requirement that a fund disclose in its SAI the securities ownership in the fund of each portfolio manager who is required to be identified in the fund's prospectus.<sup>36</sup> This disclosure is intended to help investors assess the extent to which the portfolio manager's interests are aligned with theirs.

Commenters generally supported the goal of this proposal. Several commenters argued, however, that while the level of a portfolio manager's securities ownership may be an indicator of the manager's confidence in the fund's investment strategy where the manager owns shares in the fund, it does not necessarily follow that a manager who owns few or no securities has any less confidence or is any less concerned about the fund's performance. We continue to believe, however, that a portfolio manager's ownership in a fund provides a direct indication of his or her alignment with the interests of shareholders in that fund. While a manager could have reasons for not holding shares of a specific fund that are unrelated to the manager's lack of confidence in the fund, *e.g.*, that its investment objectives do not match the manager's, we note that a fund is free to include an explanation of these reasons in its disclosure.

We have modified our proposed disclosure requirement with respect to securities ownership significantly, to address concerns raised by commenters. In particular, we have limited the requirement to a portfolio manager's ownership of equity securities in the

fund itself.<sup>37</sup> As a result, we are also eliminating the proposed requirements to include the name of the investment company or account in which the manager owns shares and the title of the class of securities owned, as well as the mandatory tabular format. Our proposed amendments would have required a fund to disclose a portfolio manager's ownership not only of the securities of the fund, but also of the securities of other accounts managed by the fund's investment adviser or the portfolio manager.<sup>38</sup> This disclosure requirement was intended, in part, to assist fund investors in assessing potential conflicts between their interests and the interests of other clients or investment vehicles in which the manager has an interest. We were persuaded by commenters who argued that expanding the disclosure requirement to include securities ownership in other accounts would result in overly detailed, complex disclosure that would not help investors assess the extent to which a portfolio manager's interests are aligned with theirs. In addition, commenters noted that the objective of providing investors with information about conflicts of interest is more effectively addressed by the amendments we are adopting that require disclosure of conflicts and the compensation structure of portfolio managers. The commenters also argued that the disclosure would be time-consuming and burdensome to prepare, particularly in the case of funds with one or more subadvisers.

The disclosure requirement we are adopting applies to fund securities beneficially owned by a portfolio manager.<sup>39</sup> For purposes of the requirement to disclose a portfolio manager's beneficial ownership of fund securities, "beneficial ownership" will be determined in accordance with rule 16a-1(a)(2) under the Exchange Act.<sup>40</sup> Our proposal would have required disclosure of securities owned either beneficially or of record, and would have deemed a person to be a "beneficial owner" of a security if he or she is a "beneficial owner" under either

rule 13d-3 under the Exchange Act, which focuses on a person's voting and investment power, or rule 16a-1(a)(2) under the Exchange Act, which focuses on a person's economic interests in a security.<sup>41</sup> We had proposed to require disclosure of record ownership, and a broader definition of beneficial ownership, in order to help investors assess potential conflicts of interest. However, in light of our current objective of providing information about the alignment of managers' and shareholders' economic interests, we believe that disclosure of record holdings should not be required and that the focus of "beneficial ownership" should be on whether a manager's economic interests are tied to the securities, rather than his or her ability to exert voting power or to dispose of the securities. This definition is also consistent with the requirements for disclosure of fund securities ownership by fund directors.<sup>42</sup>

Our proposal also would have required disclosure of securities owned by a portfolio manager's immediate family members, and would have defined "immediate family member" for this purpose as 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.<sup>43</sup> We are deleting the reference to immediate family members and the proposed definition as unnecessary. Under the definition of beneficial ownership in rule 16a-1(a)(2) under the Exchange Act that we are adopting, a person is presumed to be a beneficial owner of securities that are held by the person's immediate family members sharing the same household.<sup>44</sup>

We are adopting, as proposed, a requirement that funds disclose portfolio managers' ownership of securities in the fund using the

<sup>41</sup> Proposed Item 15(c) and Instruction 2 to Item 15(c) of Form N-1A; proposed Item 21.3 and Instruction 2 to Item 21.3 of Form N-2; proposed Item 22(c) and Instruction 2 to Item 22(c) of Form N-3; 17 CFR 240.13d-3; 17 CFR 240.16a-1(a)(2).

<sup>42</sup> Item 12(b)(4) of Form N-1A; Item 18.7 of Form N-2; Item 20(f) of Form N-3.

<sup>43</sup> See proposed Item 15(c) and Instruction 4 of Form N-1A; proposed Item 21.3 and Instruction 4 of Form N-2; proposed Item 22(c) and Instruction 4 of Form N-3.

<sup>44</sup> See Rule 16a-1(a)(2)(ii)(A) under the Exchange Act [17 CFR 240.16a-1(a)(2)(ii)(A)] (indirect pecuniary interest in securities includes securities held by any member of a person's immediate family sharing the same household). "Immediate family" is defined for purposes of rule 16a-1 as any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and includes adoptive relationships. Rule 16a-1(e) under the Exchange Act [17 CFR 240.16a-1(e)].

<sup>36</sup> Item 15(c) of Form N-1A; Item 21.3 of Form N-2; Item 22(c) of Form N-3.

<sup>37</sup> A mutual fund that issues two or more series of preferred or special stock each of which is preferred over all other series in respect of assets specifically allocated to that series is required to disclose a portfolio manager's securities ownership in each series in the statement of additional information for that series.

<sup>38</sup> Proposed Item 15(c) of Form N-1A; proposed Item 21.3 of Form N-2; proposed Item 22(c) of Form N-3.

<sup>39</sup> Item 15(c) of Form N-1A; Item 21.3 of Form N-2; Item 22(c) of Form N-3.

<sup>40</sup> Instruction 2 to Item 15(c) of Form N-1A; Instruction 2 to Item 21.3 of Form N-2; Instruction 2 to Item 22(c) of Form N-3; 17 CFR 240.16a-1(a)(2).

following dollar 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.<sup>45</sup> Commenters' views on this proposed approach varied. Several commenters argued that the maximum dollar range of securities owned should be lowered from "over \$1,000,000" to "over \$100,000," which would be consistent with the requirement for fund directors.<sup>46</sup> These commenters expressed concern that the proposed dollar ranges would require portfolio managers to provide too much information about their net worth and would unduly infringe on their privacy interests. Another commenter, by contrast, argued that any maximum dollar range chosen should accurately reflect the likely value of shares owned by a representative cross section of managers in the mutual fund industry. This commenter suggested that if a lower maximum range of \$100,000 were used, an overwhelming majority of managers would likely exceed that threshold. Finally, other commenters suggested that we require disclosure of the precise number of shares of the fund owned by a portfolio manager.

We continue to believe, on balance, that requiring disclosure of securities owned using a maximum dollar range of "over \$1,000,000" is appropriate. Disclosure of the dollar range of securities owned by a portfolio manager, rather than precise dollar holdings, is intended to provide shareholders with significant information to use in evaluating whether a manager's interests are aligned with their own, while protecting managers' legitimate privacy interests.<sup>47</sup> The maximum range of "over \$1,000,000" is intended to reflect a level of investment that would be significant. At the same time, we are not persuaded that requiring disclosure of the precise dollar holdings of securities owned is necessary.

#### *E. Date of Disclosure*

The required information regarding other accounts managed by a portfolio manager, compensation structure, and ownership of fund securities must be provided as of the end of the fund's most recently completed fiscal year.<sup>48</sup>

However, in the case of an initial registration statement or an update to a fund's registration statement that discloses a new portfolio manager, information with respect to any newly identified portfolio manager is required to be provided as of the most recent practicable date.<sup>49</sup> The date as of which the information is provided must be disclosed. In effect, this means that a fund is required to disclose changes to this information with respect to a previously identified portfolio manager once a year, as part of its post-effective amendment that is an annual update to its registration statement.<sup>50</sup> A fund is not required to update its SAI during the year for each change in any of the required information regarding a previously identified portfolio manager, such as changes in the fund securities that a portfolio manager owns.

Several commenters suggested that we should require the information regarding other accounts managed by a portfolio manager, compensation structure, and ownership of fund securities as of the most recent calendar year-end, rather than the fund's most recent fiscal year-end. These commenters noted that a fund complex frequently has multiple funds managed by the same portfolio manager, and argued that requiring information as of the most recent fiscal year-end would complicate the administrative burden of compiling the required disclosure for a portfolio manager who manages several funds with different fiscal year-ends. Another commenter, however, supported requiring the information as of the most recent fiscal year-end, arguing that this approach would strike a reasonable balance between timeliness and practicality. We are adopting the requirement as proposed, because we believe that requiring the disclosure to be provided as of calendar year-end would, in many instances, result in investors receiving excessively stale information. For example, if a fund updated its prospectus on December 1 and provided information about its portfolio managers as of the most recent calendar year-end, investors would receive information that is already 11 months old at the time of the update. We note that other modifications we are making to the amendments, in

particular, limiting the disclosure of a portfolio manager's securities ownership to ownership of securities in the fund itself, will significantly reduce the burden to funds of preparing this disclosure.

#### *F. Removal of Exclusion for Index Funds*

We are removing the current provision in Form N-1A that excludes a fund that has as its investment objective replication of the performance of an index from the requirement to identify and provide disclosure regarding its portfolio managers.<sup>51</sup> We are removing this exclusion in order to shed light on the alignment of index fund portfolio managers with investors' interests and on their potential conflicts of interest. Commenters were split on the proposed removal of the index fund exclusion. A commenter who objected to the proposal argued that there are few, if any, conflicts between the interests of shareholders of an index fund and those of a portfolio manager who is also managing an actively-managed fund, because the index fund structure imposes strict constraints on the portfolio manager's actions. Another commenter, however, agreed with the Commission that conflicts of interest, such as conflicts in determining trading execution priorities, may arise when a portfolio manager for an index fund also manages an actively-managed fund. We are removing the current index fund exclusion because we continue to believe that concerns about the alignment of portfolio managers and their conflicts of interest are important to investors in index funds.

#### *G. Disclosure of Availability of Information*

In order to assist investors in finding the additional information about portfolio managers that is required in the SAI, we are adopting amendments that require a fund to state in its prospectus that the SAI provides this information.<sup>52</sup> This disclosure is required to appear adjacent to the disclosure identifying the portfolio managers.

We are also adopting the proposed requirement that the back cover page of a mutual fund's prospectus state whether the fund makes available its SAI and annual and semi-annual reports, free of charge, on or through its Web site at a specified Internet

<sup>45</sup> Item 15(c) of Form N-1A; Item 21.3 of Form N-2; Item 22(c) of Form N-3.

<sup>46</sup> Item 12(b)(4) of Form N-1A; Item 18.7 of Form N-2; Item 20(f) of Form N-3.

<sup>47</sup> Cf. Investment Company Act Release No. 24816 (Jan. 2, 2001) [66 FR 3734, 3741 (Jan. 16, 2001)] (explaining reasons for requiring disclosure of a director's holdings of securities using dollar ranges rather than an exact dollar amount).

<sup>48</sup> Instruction 1 to each of Items 15(a), (b), and (c) of Form N-1A; Instruction 1 to each of Items 21.1,

21.2, and 21.3 of Form N-2; Instruction 1 to each of Items 22(a), (b), and (c) of Form N-3.

<sup>49</sup> This includes an update to a mutual fund's registration statement that adds a new series to the fund.

<sup>50</sup> In the case of a change in portfolio manager, however, a fund is required to update its registration statement to disclose the change and provide information about the new manager as necessary to comply with its obligations under the Securities Act.

<sup>51</sup> Instruction 1 to Item 5(a)(2) of current Form N-1A.

<sup>52</sup> Item 5(a)(2) of Form N-1A; Item 9.1.c of Form N-2; Item 6(e) of Form N-3.

address.<sup>53</sup> If a mutual fund does not make its SAI and shareholder reports available in this manner, the fund is required to disclose the reasons why it does not do so (including, where applicable, that the fund does not have an Internet Web site). We are also adopting amendments to Forms N-2 and N-3 that require similar disclosure on the front cover page of the prospectus for closed-end funds and insurance company managed separate accounts that issue variable annuity contracts.<sup>54</sup> In addition, the amendments to Forms N-2 and N-3 require that the front cover page of the prospectus include a statement explaining how to obtain the fund's shareholder reports and a toll-free (or collect) telephone number for investors to call to request the fund's SAI, annual and semi-annual reports, and other information, and to make shareholder inquiries. They also change from optional to mandatory disclosure of the Commission's Internet Web site address. These requirements are similar to existing requirements of Form N-1A.<sup>55</sup>

#### H. Amendment of Form N-CSR

Because closed-end funds do not offer their shares continuously, and are therefore generally not required to maintain an updated SAI to meet their obligations under the Securities Act of 1933,<sup>56</sup> we are adopting, as proposed, the requirement that closed-end funds provide disclosure regarding their portfolio managers in their annual reports on Form N-CSR.<sup>57</sup> This will include the basic information (name, title, length of service, and business experience), as well as the disclosure that we are requiring regarding other accounts managed by a portfolio manager, compensation structure, and ownership of fund securities.<sup>58</sup> A closed-end fund is required to disclose any change in its portfolio managers, and to provide all of the required portfolio manager disclosure for any newly identified portfolio manager, in its semi-annual reports on Form N-CSR.<sup>59</sup>

The disclosure in Form N-CSR with respect to the name, title, length of service, and business experience of a portfolio manager is required to be current as of the date of filing of the report, and the disclosure regarding other accounts managed, compensation structure, and fund securities ownership generally is required to be current as of the end of the fund's most recently completed fiscal year.<sup>60</sup> In the case of a newly identified portfolio manager in an annual or semi-annual report, however, this disclosure is required to be current as of the most recent practicable date.<sup>61</sup> This will result in basic information about a closed-end fund's portfolio manager in Form N-CSR that is current on the date of filing, and will make the date with respect to which other disclosure about a portfolio manager is provided consistent with the requirements for the SAI in Forms N-1A, N-2, and N-3.

#### I. Compliance Date

The effective date of the amendments is October 1, 2004. All initial registration statements on Forms N-1A, N-2, and N-3, and all post-effective amendments that are annual updates to effective registration statements on these forms, filed on or after February 28, 2005, must include the disclosure required by the amendments. Moreover, all post-effective amendments that add a new series, filed on or after February 28, 2005, must comply with the amendments with respect to the new series. Every annual report by a closed-end fund on Form N-CSR filed for a fiscal year ending on or after December 31, 2005, and every semi-annual report by a closed-end fund on Form N-CSR filed after the first such annual report, must include the disclosure required by the amendments. Based on the comments and the changes we have made to the proposed requirements, we believe that this will provide adequate time for funds to compile and review the information that must be disclosed.

#### III. Paperwork Reduction Act

As explained in the Proposing Release, certain provisions of the amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501, *et seq.*]. The titles for the collections of information are: (1) "Form N-1A under

the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Open-End Management Investment Companies"; (2) "Form N-2 under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Closed-End Management Investment Companies"; (3) "Form N-3—Registration Statement of Separate Accounts Organized as Management Investment Companies"; and (4) "Form N-CSR—Certified Shareholder Report of Registered Management Investment Companies." An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Form N-1A (OMB Control No. 3235-0307), Form N-2 (OMB Control No. 3235-0026), and Form N-3 (OMB Control No. 3235-0316) were adopted pursuant to Section 8(a) of the Investment Company Act [15 U.S.C. 80a-8(a)] and Section 5 of the Securities Act [15 U.S.C. 77e]. Form N-CSR (OMB Control No. 3235-0570) was adopted pursuant to Section 30 of the Investment Company Act [15 U.S.C. 80a-29] and Sections 13 and 15(d) of the Exchange Act [15 U.S.C. 78m and 78o(d)].

We published notice soliciting comments on the collection of information requirements in the Proposing Release and submitted these proposed collections of information to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.<sup>62</sup> OMB has approved the collection of information for the amendments to Forms N-2 and N-3. We are resubmitting the collections of information for the amendments to Forms N-1A and N-CSR. We received no comments on any of the proposed collection of information requirements. However, as discussed below, we are requesting comment again with regard to the collection of information requirements related to Forms N-1A and N-CSR.

The amendments to Forms N-1A, N-2, and N-3 adopted in this release require funds to provide improved disclosure regarding their portfolio managers in fund prospectuses and SAIs. The amendments also amend Form N-CSR to require similar disclosure for closed-end funds in reports on Form N-CSR. The paperwork burden estimates for the amendments, described below, represent the estimated total burden annualized over a three-year period. We expect that

<sup>53</sup> Item 1(b)(1) of Form N-1A.

<sup>54</sup> Item 1.1.d of Form N-2; Item 1(a)(vi) of Form N-3.

<sup>55</sup> See Items 1(b)(1) and 1(b)(3) of Form N-1A.

<sup>56</sup> Pursuant to rule 8b-16(b) under the Investment Company Act [17 CFR 270.8b-16(b)], closed-end funds are not required to file amendments to their registration statements (including their SAIs) in order to comply with their Investment Company Act registration obligations, provided that they include specified information in their annual reports to shareholders.

<sup>57</sup> Item 8 of Form N-CSR.

<sup>58</sup> Item 8(a) of Form N-CSR.

<sup>59</sup> Item 8(b) of Form N-CSR.

<sup>60</sup> Instruction 1 to Item 8(a)(1), Instruction 1 to Item 8(a)(2), Instruction 1 to Item 8(a)(3), and Instruction 1 to Item 8(a)(4) of Form N-CSR.

<sup>61</sup> Instruction 1 to Item 8(a)(1), Instruction 1 to Item 8(a)(2), Instruction 1 to Item 8(a)(3), Instruction 1 to Item 8(a)(4), and Item 8(b) of Form N-CSR.

<sup>62</sup> See Proposing Release, *supra* note 6, 69 FR at 12759-60.



funds will incur greater internal hour burdens and external costs in the first year, but will incur lower burdens and costs in the following two years as funds become more efficient in preparing the disclosure.

#### Form N-1A

Form N-1A, including the amendments, contains collection of information requirements. The likely respondents to this information collection are open-end funds registering with the Commission. Compliance with the disclosure requirements of Form N-1A is mandatory. Responses to the disclosure requirements are not confidential.

We estimate that, on an annual basis, registrants file initial registration statements on Form N-1A covering 483 portfolios, and file post-effective amendments on Form N-1A covering 6,542 portfolios. The current hour burden for Form N-1A is 1,142,296 hours.<sup>63</sup> We have reduced the estimates provided in the Proposing Release of the increases in the hour burden per portfolio per filing of registration statements and post-effective amendments on Form N-1A related to the amendments, in light of modifications we are making to the proposal that will reduce the burden of the amendments.<sup>64</sup> These modifications include eliminating the requirement to describe policies and procedures related to conflicts and limiting the disclosure of the portfolio managers' ownership of securities to securities of the fund itself. We now estimate that the amendments will increase the hour burden per portfolio per filing of an initial registration statement on Form N-1A by 6 hours and will increase the hour burden per portfolio per filing of a post-effective amendment on Form N-1A by 2 hours. Thus, the incremental hour burden for Form N-1A resulting from the amendments relating to portfolio manager disclosure will be 15,982 hours (483 portfolios filing initial registration statements  $\times$  6 hours per portfolio + 6,542 portfolios filing post effective amendments  $\times$  2 hours per portfolio).

<sup>63</sup> This number includes a requested increase of 30,998 burden hours in connection with the Proposing Release, but does not include a reduction of 17,876 burden hours in connection with the amendments in Investment Company Act Release No. 26486 (June 23, 2004) [69 FR 39798 (June 30, 2004)] that remove disclosure from Form N-1A regarding the reasons for board approval of an investment advisory contract.

<sup>64</sup> In the Proposing Release, we estimated that the amendments would increase the hour burden per portfolio per filing of an initial registration statement on Form N-1A by 10 hours and would increase the hour burden per portfolio per filing of a post-effective amendment to a registration statement on Form N-1A by 4 hours.

This represents a reduction of 15,016 burden hours from the estimate of 30,998 burden hours contained in the Proposing Release. The estimated total annual hour burden for all funds for the preparation and filing of initial registration statements and post-effective amendments to Form N-1A will be 1,127,280 hours (1,142,296 hours – 15,016 hours).

In addition to reducing the estimate of internal burden hours to take into account modifications to the proposal, we are adding an estimate of external costs to reflect the possibility that funds will engage outside counsel to review the new disclosure and provide related legal services. We estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per portfolio per filing of an initial registration statement on Form N-1A and will incur an additional 0.5 hours of outside counsel time per portfolio per filing of a post-effective amendment on Form N-1A. Thus, we estimate that the incremental external costs for Form N-1A resulting from the amendments will be \$1,126,200 ((483 portfolios filing initial registration statements  $\times$  1 hour per portfolio + 6,542 portfolios filing post-effective amendments  $\times$  0.5 hours per portfolio)  $\times$  \$300 per hour).<sup>65</sup>

#### Form N-2

Form N-2, including the amendments, contains collection of information requirements. The likely respondents to this information collection are closed-end funds registering with the Commission. Compliance with the disclosure requirements of Form N-2 is mandatory. Responses to the disclosure requirements are not confidential.

We estimate that, on an annual basis, 234 closed-end funds will file initial registration statements on Form N-2 and 38 closed-end funds will file post-effective amendments on Form N-2. The current hour burden for Form N-2 is 134,301 hours. In light of the modifications we are making to the proposal, we now estimate that the amendments will increase the hour burden per filing of an initial registration statement on Form N-2 by 6 hours and the hour burden per filing of a post-effective amendment on Form N-2 by 2 hours.<sup>66</sup> Thus, the incremental

<sup>65</sup> The estimated average hourly wage of \$300 for outside counsel is based on estimates provided by industry sources to the Commission in connection with other recent rulemakings.

<sup>66</sup> In the Proposing Release, we estimated that the amendments would increase the hour burden per filing of an initial registration statement on Form N-2 by 10 hours and would increase the hour

hour burden resulting from the amendments relating to portfolio manager disclosure will be 1,480 hours ((6 hours per fund  $\times$  234 funds) + (2 hours per fund  $\times$  38 funds)). This represents a reduction of 1,012 burden hours from the estimate of 2,492 in the Proposing Release. The total annual hour burden for all funds for preparation and filing of initial registration statements and post-effective amendments on Form N-2 will be 133,289 hours (134,301 hours – 1,012 hours).

As with Form N-1A above, we estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per filing of an initial registration statement on Form N-2 and will incur an additional 0.5 hours of outside counsel time per filing of a post-effective amendment on Form N-2. Thus, we estimate that the incremental external costs for Form N-2 resulting from the amendments will be \$75,900 ((1 hour per fund  $\times$  234 funds + 0.5 hours per fund  $\times$  38 funds)  $\times$  \$300).<sup>67</sup>

#### Form N-3

Form N-3, including the amendments, contains collection of information requirements. The likely respondents to this information collection are separate accounts, organized as management investment companies offering variable annuities, registering with the Commission on Form N-3. Compliance with the disclosure requirements of Form N-3 is mandatory. Responses to the disclosure requirements are not confidential.

The Commission estimates that, on an annual basis, initial registration statements covering 3 portfolios are filed on Form N-3 and post-effective amendments covering 35 portfolios are filed on Form N-3. The current hour burden for Form N-3 is 34,756 hours. In light of the modifications we are making to the proposal, we now estimate that the amendments will increase the hour burden per portfolio per filing of an initial registration statement on Form N-3 by 6 hours and the hour burden per portfolio per filing of a post-effective amendment on Form N-3 by 2 hours.<sup>68</sup> Thus, the incremental hour burden resulting from the amendments relating

burden per filing of a post-effective amendment on Form N-2 by 4 hours.

<sup>67</sup> See *supra* note 65 regarding the hourly wage estimate for outside counsel.

<sup>68</sup> In the Proposing Release, we estimated that the amendments would increase the hour burden per portfolio per filing of an initial registration statement on Form N-3 by 10 hours and would increase the hour burden per portfolio per filing of a post-effective amendment to a registration statement on Form N-3 by 4 hours.



to portfolio manager disclosure will be 88 hours ((6 hours  $\times$  3 portfolios) + (2 hours  $\times$  35 portfolios)). This represents a reduction of 82 burden hours from the 170 burden hours estimated in the Proposing Release. The total annual hour burden for all funds for preparation and filing of initial registration statements and post-effective amendments on Form N-3 will be 34,674 hours (34,756 hours – 82 hours).

As with Forms N-1A and N-2 above, we estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per portfolio per filing of an initial registration statement on Form N-3 and will incur an additional 0.5 hours of outside counsel time per portfolio per filing of a post-effective amendment on Form N-3. Thus, we estimate that the incremental external costs for Form N-3 resulting from the amendments will be \$6,150 ((1 hour  $\times$  3 portfolios) + (0.5 hours  $\times$  35 portfolios)  $\times$  \$300).<sup>69</sup>

#### *Form N-CSR*

Form N-CSR, including the amendments, contains collection of information requirements. The respondents to this information collection will be closed-end funds subject to rule 30e-1 under the Investment Company Act registering with the Commission on Form N-2. Compliance with the disclosure requirements of Form N-CSR is mandatory. Responses to the disclosure requirements are not confidential.

We estimate that, on an annual basis, 733 closed-end funds registered on Form N-2 file reports on Form N-CSR.<sup>70</sup> The current total annual hour burden for preparing reports on Form N-CSR is 146,053 hours.<sup>71</sup> In light of the modifications we are making to the proposal, we now estimate that the amendments will increase the hour burden per filing of an annual report on Form N-CSR by 2 hours, and will

increase the hour burden per filing of a semi-annual report by 1 hour.<sup>72</sup> Thus, the incremental hour burden resulting from the amendments relating to portfolio manager disclosure will be 2,199 hours ((2 hours per fund  $\times$  733 closed-end funds) + (1 hour per fund  $\times$  733 closed-end funds)). This represents a reduction of 2,199 burden hours from the 4,398 burden hours estimated in the Proposing Release. The total annual hour burden for all funds for preparation and filing of reports on Form N-CSR will be 143,854 hours (146,053 hours – 2,199 hours).

We estimate that, as a result of the amendments, funds will incur an additional 1 hour of outside counsel time per filing of an annual report on Form N-CSR and will incur an additional 0.5 hours of outside counsel time per filing of a semi-annual report on Form N-CSR. Thus, we estimate that the incremental external costs for Form N-CSR resulting from the amendments will be \$329,850 ((1 hour per fund  $\times$  733 closed-end funds + 0.5 hours per fund  $\times$  733 closed-end funds)  $\times$  \$300).<sup>73</sup>

#### *Request for Comments*

The Commission previously submitted burden estimates to OMB for the collections of information with respect to Forms N-1A and N-CSR which have not yet been approved. The amendments as adopted result in modifications to the burden hours associated with these collections of information. Because the burden estimates under review at OMB do not reflect the modifications made by the Commission in this release, we are submitting new estimates to OMB with respect to Forms N-1A and N-CSR and requesting comments on these new estimates. The Commission requests comment in order to:

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility;
- Evaluate the accuracy of the Commission's estimates of the burden of the proposed collections of information;
- Determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and

- Evaluate whether there are ways to minimize the burden of the collections of information on the respondents, including through the use of automated collection techniques or other forms of information technology.

Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Room 10102, New Executive Office Building, Washington, DC 20503, and should send a copy to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549, with reference to File No. S7-12-04. Requests for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7-12-04, and be submitted to the Securities and Exchange Commission, Office of Filing and Information Services, 450 Fifth Street, NW., Washington, DC 20549-0609. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release.

#### **IV. Cost/Benefit Analysis**

The Commission is sensitive to the costs and benefits imposed by its rules. Our amendments will require funds to provide enhanced disclosure about their portfolio managers. Specifically, the amendments will:

- Require a fund to identify in its prospectus each member of a committee, team, or other group of persons that is jointly and primarily responsible for the day-to-day management of the fund's portfolio (or in the case of a team with more than five such members, the five members with the most significant responsibility for the day-to-day management of the fund's portfolio);
- Require a fund to provide information in its SAI regarding other accounts managed by any of its portfolio managers, including a description of material conflicts of interest that may arise in connection with simultaneously managing the fund and the other accounts;
- Require a fund to disclose in its SAI the structure of, and the method used to determine, the compensation of each portfolio manager;

<sup>69</sup> See *supra* note 65 regarding the hourly wage estimate for outside counsel.

<sup>70</sup> The estimate of the number of affected closed-end funds registered on Form N-2 is based on the Commission staff's analysis of reports filed on Form N-SAR in 2003.

<sup>71</sup> This current total annual burden figure does not include the hour burden of 121 hours proposed to be added to Form N-CSR in Investment Company Act Release No. 26206 (Oct. 15, 2003) [68 FR 60784 (Oct. 23, 2003)], in connection with the proposed rules regarding security holder director nominations. It does, however, include the hour burden of 167 hours added to Form N-CSR in Investment Company Act Release No. 26262 (Nov. 24, 2003) [68 FR 69204 (Dec. 11, 2003)], in connection with the adoption of rules requiring disclosure regarding nominating committee functions, and the burden of 4,398 hours in connection with the Proposing Release.

<sup>72</sup> In the Proposing Release, we estimated that the amendments would increase the hour burden per filing of a report on Form N-CSR for closed-end funds by 4 hours per annual report on Form N-CSR, and by 2 hours per semi-annual report on Form N-CSR.

<sup>73</sup> See *supra* note 65 regarding the hourly wage estimate for outside counsel.

- Require a fund to disclose in its SAI each portfolio manager's ownership of securities in the fund; and

- Require a closed-end fund to provide parallel disclosure regarding its portfolio managers in its reports on Form N-CSR.

These amendments are intended to provide greater transparency regarding portfolio managers, their incentives in managing a fund, and the potential conflicts of interest that may arise when they or the adviser that employs them also manages other investment vehicles.

In the Proposing Release, we provided an analysis of the costs and benefits of the proposed amendments, and we requested comments.<sup>74</sup> Although some commenters addressed the costs and benefits of specific substantive provisions of the proposed rules, no commenters commented directly on the Cost/Benefit Analysis or provided figures related to cost-benefit issues.

#### A. Benefits

The enhanced disclosure regarding portfolio managers that will be required under our amendments will benefit investors in several ways. First, enhanced disclosure regarding portfolio managers who are members of management teams will help investors better evaluate the identity, background, and experience of fund management in cases where the fund is managed using a team approach. Second, requiring a fund to provide disclosure regarding other accounts for which its portfolio managers are primarily responsible for day-to-day portfolio management will enable investors to assess the conflicts of interest to which a portfolio manager may be subject as a result of managing the fund and other portfolios, such as hedge funds. Third, requiring a fund to provide disclosure regarding the structure of, and method used to determine, the compensation of its portfolio managers will help investors better understand a portfolio manager's incentives in running a fund, and will also shed light on possible conflicts of interest that may arise when a portfolio manager manages other accounts. Finally, requiring a fund to disclose the ownership of fund securities of each of its portfolio managers should help investors to assess the extent to which the portfolio manager's interests are aligned with theirs.

#### B. Costs

The amendments impose new requirements on funds to provide

enhanced disclosure regarding their portfolio managers. We estimate that complying with these new disclosure requirements will entail a relatively small financial burden. Much of the information required regarding a fund's portfolio managers, including basic information about their identity and business experience, and information about other accounts that they manage and their compensation structure, should be readily available to a fund's investment adviser. We note that our recently adopted code of ethics rules for investment advisers require portfolio managers to report to the investment adviser information on their securities holdings, including securities in the fund, on an annual basis, and to report information on their securities transactions each calendar quarter.<sup>75</sup> Because a portfolio manager will be required to report information on his or her fund securities ownership periodically, we expect that the cost to a fund of compiling and reporting this information for purposes of the amendments should be limited.

These costs may include both internal costs (for attorneys and other non-legal staff of a fund, such as computer programmers, to prepare and review the required disclosure) and external costs (for printing and typesetting of the disclosure and outside legal counsel). For purposes of the Paperwork Reduction Act, we have estimated that the new disclosure requirements will add 19,749 hours to the internal burden of completing Forms N-1A, N-2, N-3 and N-CSR.<sup>76</sup> We estimate that this additional internal burden will equal total internal costs of \$1,654,374 annually, or approximately \$435 per fund.<sup>77</sup> In addition, we estimate that the

<sup>75</sup> See Investment Company Act Release No. 26492 (July 2, 2004) [69 FR 41696 (July 9, 2004)] (adopting rule 204A-1(b)(1) under the Investment Advisers Act of 1940).

<sup>76</sup> This represents 23,490 additional hours for Form N-1A, 1,986 additional hours for Form N-2, 129 additional hours for Form N-3, and 2,566 additional hours for Form N-CSR.

<sup>77</sup> These figures are based on a Commission estimate that approximately 3,800 investment companies would be subject to the amendments and an estimated hourly wage rate of \$83.77. The estimate of the number of investment companies is based on data derived from the Commission's EDGAR filing system. The estimated wage rate is a blended rate, based on published hourly wage rates for assistant/associate general counsels (\$82.05) and programmers (\$42.05) in New York City, and the estimate that staff in these categories will divide time equally on compliance with the disclosure requirements, yielding a weighted wage rate of \$62.05  $((\$82.05 \times .50) + (\$42.05 \times .50)) = \$62.05$ . See Securities Industry Association, *Report on Management & Professional Earnings in the Securities Industry 2003* (Sept. 2003). This weighted wage rate was then adjusted upward by 35% for overhead, reflecting the costs of supervision, space, and administrative support, to

external costs of providing the new disclosure related to expenses for outside legal counsel will equal \$1,538,100 annually, or approximately \$405 per fund.<sup>78</sup> Thus, the estimated total cost of the new disclosure would be approximately \$3,192,474 annually or approximately \$840 per fund.

We expect that the external costs relating to the physical delivery of the disclosure required by the amendments, such as printing, typesetting, and mailing, will be minimal, because this disclosure will be required in a fund's SAI (and in the case of a closed-end fund, on Form N-CSR also). The SAI is typically not typeset, and is only required to be provided to shareholders upon request. Similarly, because the disclosure in Form N-CSR for closed-end funds is not required to be delivered to shareholders, we estimate that the external costs of this disclosure will be minimal as well.

#### V. Consideration of Burden on Competition; Promotion of Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule will have on competition.<sup>79</sup> Section 23(a)(2) also prohibits us from adopting any rule that will impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, Section 2(c) of the Investment Company Act, Section 2(b) of the Securities Act, and Section 3(f) of the Exchange Act require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.<sup>80</sup> In the Proposing Release, we requested comments on whether the proposed amendments would promote efficiency, competition, and capital formation. We received no comments on this section of the proposal.

The amendments are intended to provide greater transparency for fund

obtain the total per hour internal cost of \$83.77  $(\$62.05 \times 1.35) = \$83.77$ . This estimated wage rate for compliance attorneys differs from the estimate in the Proposing Release, which was based on published compensation for compliance attorneys in New York City (\$74.22) contained in the Securities Industry Association's *Report on Management & Professional Earnings in the Securities Industry 2001* (Oct. 2001).

<sup>78</sup> See *supra* note 65 regarding the hourly wage estimate for outside counsel.

<sup>79</sup> 15 U.S.C. 78w(a)(2).

<sup>80</sup> 15 U.S.C. 77(b), 78c(f), and 80a-2(c).

<sup>74</sup> See Section V, "Cost/Benefit Analysis," Proposing Release, *supra* note 6, 69 FR at 12760-61.

shareholders regarding the identity, incentives, and potential conflicts of interest of a fund's portfolio managers. These changes may improve efficiency. The enhanced disclosure requirements will enable shareholders to make a more informed assessment as to whether the interests of fund management are aligned with their own interests, which could promote more efficient allocation of investments by investors. These amendments will also improve competition, as enhanced transparency regarding a fund's portfolio managers may encourage investors to consider more carefully the background, incentives, and potential conflicts of interest of the portfolio managers of the funds in which they are invested, or in which they are considering investing. Finally, the effect that the amendments will have on capital formation are unclear.

Although, as noted above, we believe that the amendments will benefit investors, the magnitude of the effect of the amendments on efficiency and competition, and the extent to which they will be offset by the costs of the amendments, are difficult to quantify. We note that most funds are currently required to provide disclosure in their prospectuses regarding the identity and background of their portfolio managers.

## VI. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis ("Analysis") has been prepared in accordance with 5 U.S.C. 603. It relates to the Commission's amendments to Forms N-1A, N-2, and N-3 under the Securities Act and the Investment Company Act, and to Form N-CSR under the Investment Company Act and the Exchange Act, that will require funds to provide improved disclosure about their portfolio managers. We published in the release proposing these amendments an Initial Regulatory Flexibility Analysis ("IRFA"), which we prepared in accordance with 5 U.S.C. 603.

### A. Reasons for, and Objectives of, Amendments

Sections I and II of this Release describe the reasons for and objectives of the form amendments. As we discuss in detail above, these amendments are designed to require a fund to provide improved information regarding its portfolio managers, in order to better help investors evaluate their background, incentives in managing the fund, and potential conflicts of interest.

### B. Significant Issues Raised by Public Comment

In the IRFA for the proposed amendments, we requested comment on any aspect of the IRFA, including the number of small entities that would be affected by the proposed amendments, the likely impact of the proposal on small entities, the nature of any impact, and providing any empirical data supporting the extent of the impact. We received no comment letters addressing this section.

### C. Small Entities Subject to the Rule

For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.<sup>81</sup> Approximately 145 mutual funds registered on Form N-1A and approximately 70 closed-end funds registered on Form N-2 meet this definition.<sup>82</sup> We estimate that few, if any, registered separate accounts registered on Form N-3 are small entities.<sup>83</sup>

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

The amendments will require a fund to identify and provide basic information in its prospectus regarding each member of a team responsible for managing the fund's portfolio. In addition, a fund will be required to provide additional disclosure in its SAI about its portfolio managers, including other accounts they manage, compensation structure, and ownership of fund securities. A closed-end fund will also be required to provide this disclosure in its reports on Form N-CSR.

The Commission estimates some one-time formatting and ongoing costs and burdens that will be imposed on all funds, including funds that are small entities. We note, however, that in many cases mutual funds and closed-end funds currently provide disclosure in

their prospectuses about their portfolio managers, including their names, titles, length of service, and business experience. For purposes of the Paperwork Reduction Act, we have estimated that the new disclosure requirements will increase the hour burden of filings on Forms N-1A, N-2, N-3, and N-CSR by 19,749 hours annually, or \$1,654,374.<sup>84</sup> We have also estimated that funds will incur an additional \$1,583,100 in external costs.<sup>85</sup> We therefore estimate that the amendments will increase total costs per fund, including funds that are small entities, by approximately \$3,192,474 annually, or approximately \$840 per fund.<sup>86</sup>

We expect that the external costs of providing the additional disclosure relating to a fund's portfolio managers, including other accounts they manage, compensation structure, and ownership of fund securities, will be minimal, because this disclosure will be required in a fund's SAI (and in the case of a closed-end fund, on Form N-CSR also). The SAI is typically not typeset, and is only required to be provided to shareholders upon request. Similarly, because the disclosure in Form N-CSR for closed-end funds is not required to be delivered to shareholders, we estimate that the external costs of this disclosure on Form N-CSR will be minimal as well.

### E. Agency Action To Minimize Effect on Small Entities

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

The Commission believes at the present time that special compliance or reporting requirements for small entities, or an exemption from coverage

<sup>81</sup> 17 CFR 270.0-10.

<sup>82</sup> This estimate is based on analysis by the Division of Investment Management staff of information from databases compiled by third-party information providers, including Morningstar, Inc., and Lipper.

<sup>83</sup> This estimate is based on figures compiled by Division of Investment Management staff regarding separate accounts registered on Form N-3. In determining whether an insurance company separate account is a small entity for purposes of the Regulatory Flexibility Act, the assets of insurance company separate accounts are aggregated with the assets of their sponsoring insurance companies. Rule 0-10(b) under the Investment Company Act [17 CFR 270.0-10(b)].

<sup>84</sup> These figures are based on an estimated hourly wage rate of \$83.77. See *supra* note 77.

<sup>85</sup> See *supra* note 65 regarding the hourly wage estimate for outside counsel.

<sup>86</sup> See *supra* note 77 regarding the number of investment companies subject to the amendments.

for small entities, would not be appropriate or consistent with investor protection. The amendments will provide investors with greater transparency of information regarding fund portfolio managers, including their compensation structure, other accounts that they manage, and their ownership of securities in the fund. This increased transparency will allow investors to better assess portfolio managers' incentives, alignment with shareholders' interests, and potential conflicts of interest. Different disclosure requirements for funds that are small entities may create the risk that investors in these funds would be less able to evaluate the portfolio management of these funds, and less able to make informed choices among funds. We believe it is important for the disclosure that will be required by the amendments to be provided to investors in all funds, not just funds that are not considered small entities.

We have endeavored through the amendments to minimize the regulatory burden on all funds, including small entities, while meeting our regulatory objectives. For example, we have modified our proposal to eliminate the proposed requirement to describe policies and procedures related to conflicts of interest in the SAI, and to limit the disclosure of a portfolio manager's ownership of securities to securities of the fund that he or she manages. In addition, we have modified our proposed compliance date to allow funds additional time to provide the required disclosure in their initial registration statements and post-effective amendments. Small entities should benefit from the Commission's reasoned approach to the amendments to the same degree as other investment companies. Further clarification, consolidation, or simplification of the amendments for funds that are small entities would be inconsistent with the Commission's concern for investor protection. Finally, we do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context. Based on our past experience, we believe that the disclosure will be more useful to investors if there are enumerated informational requirements.

## VII. Statutory Authority

The Commission is adopting amendments to Forms N-1A, N-2, and N-3 pursuant to authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)] and sections 8, 24(a), 30, and 38 of the Investment Company Act

[15 U.S.C. 80a-8, 80a-24(a), 80a-29, and 80a-37]. The Commission is also adopting amendments to Form N-CSR pursuant to authority set forth in sections 10(b), 13, 15(d), 23(a), and 36 of the Exchange Act [15 U.S.C. 78j(b), 78m, 78o(d), 78w(a), and 78mm] and sections 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a-8, 80a-24(a), 80a-29, and 80a-37].

## List of Subjects

### 17 CFR Parts 239 and 249

Reporting and recordkeeping requirements, Securities.

### 17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

## Text of Rule and Form Amendments

■ For the reasons set out in the preamble, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows.

## PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 1. The authority citation for Part 239 continues to read in part as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78ll(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a-8, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

\* \* \* \* \*

## PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 2. The authority citation for part 249 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

\* \* \* \* \*

## PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 3. 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, and 80a-39, unless otherwise noted.

\* \* \* \* \*

### § 270.30a-2 [Amended]

■ 4. Section 270.30a-2 is amended by:

■ a. Revising the reference "Item 11(a)(2)" in paragraph (a) to read "Item 12(a)(2)"; and

■ b. Revising the reference "Item 11(b)" in paragraph (b) to read "Item 12(b)".

## PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 5. The authority citation for Part 274 continues to read in part 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, and 80a-29, unless otherwise noted.

\* \* \* \* \*

■ 6. Form N-1A (referenced in §§ 239.15A and 274.11A) is amended by:

■ a. Revising Item 1(b)(1) and Instruction 1 to Item 1(b)(1);

■ b. Revising Item 5(a)(2) and Instructions 1 and 2 to Item 5(a)(2) and removing Instructions 3 and 4 to Item 5(a)(2);

■ c. Redesignating Items 15 through 29 as Items 16 through 30;

■ d. Adding new Item 15;

■ e. In paragraph B.2(b) of the General Instructions, revising the phrase "(except Items 1, 2, 3, and 8), B, and C (except Items 22(e) and (i)-(k))" to read "(except Items 1, 2, 3, and 8), B, and C (except Items 23(e) and (i)-(k))";

■ f. In Item 2(c)(2)(iii), revising the phrase "Instruction 5 to Item 21(b)(7)" to read "Instruction 5 to Item 22(b)(7)";

■ g. In Instruction 2(a) to Item 2(c)(2), revising the references "Item 20(a)", Item 20(b)(1)", and "Items 20(b)(2) and (3)" to read "Item 21(a)", Item 21(b)(1)", and "Items 21(b)(2) and (3)", respectively;

■ h. In Instruction 2(b) to Item 2(c)(2), revising the phrase "Instruction 6 to Item 21(b)(7)" to read "Instruction 6 to Item 22(b)(7)";

■ i. In Instruction 2(d) to Item 2(c)(2), revising the references "Item 20(b)(2)" and "Item 20" to read "Item 21(b)(2)" and "Item 21", respectively;

■ j. In Instruction 4 to Item 2(c)(2), revising the phrase "Instruction 11 to Item 21(b)(7)" to read "Instruction 11 to Item 22(b)(7)";

■ k. In Instruction to paragraph (a) of newly redesignated Item 18, revising the reference "Item 17(a)" to read "Item 18(a)";

■ l. In Instruction 4 to paragraph (c) of newly redesignated Item 18 and paragraph (k) of newly redesignated Item 23, revising the reference "Item 21" to read "Item 22";

■ m. In Instruction 1 to paragraph (c) of newly redesignated Item 20, revising the reference "Item 29" to read "Item 30";

■ n. In paragraph (b) of newly redesignated Item 27, revising the reference "Item 19" to read "Item 20";

■ o. In Instruction 2 to paragraph (c) of newly redesignated Item 27, revising the reference "Item 19(c)" to read "Item 20(c)";

■ p. In paragraph (b)(7)(ii)(B) of newly redesignated Item 22, revising the

reference “Item 20(b)(1)” to read “Item 21(b)(1)”;

■ q. In Instruction to paragraph (c)(1)(ii) of newly redesignated Item 22, revising the references “Item 21(b)(1)” and “Item 21(c)(1)” to read “Item 22(b)(1)” and “Item 22(c)(1)”, respectively; and

■ r. In Instruction 2(a)(ii) to paragraph (d)(1) of newly redesignated Item 22, revising the reference “Item 21(d)(1)” to read “Item 22(d)(1)”.

The additions and revisions are to read as follows:

**Note:** The text of Form N-1A does not, and these amendments will not, appear in the Code of Federal Regulations.

## FORM N-1A

\* \* \* \*

### Item 1. Front and Back Cover Pages

\* \* \* \*

(b) *Back Cover Page.* Include the following information, in plain English under rule 421(d) under the Securities Act, on the outside back cover page of the prospectus:

(1) A statement that the SAI includes additional information about the Fund, and a statement to the following effect:

Additional information about the Fund’s investments is available in the Fund’s annual and semi-annual reports to shareholders. In the Fund’s annual report, you will find a discussion of the market conditions and investment strategies that significantly affected the Fund’s performance during its last fiscal year.

Explain that the SAI and the Fund’s annual and semi-annual reports are available, without charge, upon request, and explain how shareholders in the Fund may make inquiries to the Fund. Provide a toll-free (or collect) telephone number for investors to call: To request the SAI; to request the Fund’s annual report; to request the Fund’s semi-annual report; to request other information about the Fund; and to make shareholder inquiries. Also, state whether the Fund makes available its SAI and annual and semi-annual reports, free of charge, on or through the Fund’s Web site at a specified Internet address. If the Fund 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 Fund does not have an Internet Web site).

#### Instructions

1. A Fund may indicate, if applicable, that the SAI, annual and semi-annual reports, and other information are available by E-mail request.

\* \* \* \*

### Item 5. Management, Organization, and Capital Structure

(a) \* \* \*

(2) *Portfolio Manager.* State the name, title, and length of service of the person or persons employed by or associated with the Fund or an investment adviser of the Fund who are primarily responsible for the day-to-day management of the Fund’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 Fund.

#### Instructions

1. This requirement does not apply to a Money Market Fund.

2. If a committee, team, or other group of persons associated with the Fund or an investment adviser of the Fund is jointly and primarily responsible for the day-to-day management of the Fund’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 Fund’s portfolio. If more than five persons are jointly and primarily responsible for the day-to-day management of the Fund’s portfolio, the Fund need only provide information for the five persons with the most significant responsibility for the day-to-day management of the Fund’s portfolio.

\* \* \* \*

### Item 15. Portfolio Managers

(a) *Other Accounts Managed.* If a Portfolio Manager required to be identified in response to Item 5(a)(2) is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

- (1) The Portfolio Manager’s name;
  - (2) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:
    - (A) Registered investment companies;
    - (B) Other pooled investment vehicles;
- and

(C) Other accounts.

(3) For each of the categories in paragraph (a)(2) of this Item, 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

(4) A description of any material conflicts of interest that may arise in connection with the Portfolio Manager’s management of the Fund’s investments, on the one hand, and the investments of the other accounts included in response to paragraph (a)(2) of this Item, on the other. This description would include, for example, material conflicts between the investment strategy of the Fund and the investment strategy of other accounts managed by the Portfolio Manager and material conflicts in allocation of investment opportunities between the Fund and other accounts managed by the Portfolio Manager.

#### Instructions

1. Provide the information required by this paragraph as of the end of the Fund’s most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Fund’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 paragraph (a) of this Item.

(b) *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 5(a)(2). 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 Fund 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 Fund’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 this paragraph as of the end of the Fund's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Fund'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. 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, relocation, 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 Fund, the Fund's investment adviser, or any other source with respect to management of the Fund and any other accounts included in the response to paragraph (a)(2) of this Item. This description must clearly disclose any differences between the method used to determine the Portfolio Manager's compensation with respect to the Fund 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 Fund, this must be disclosed.

(c) *Ownership of Securities.* For each Portfolio Manager required to be identified in response to Item 5(a)(2), state the dollar range of equity securities in the Fund 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 this paragraph as of the end of the Fund's most recently completed fiscal year, except that, in the case of an initial registration statement or an update to the Fund'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 (17 CFR 240.16a-1(a)(2)).

\* \* \* \* \*

■ 7. Form N-2 (referenced in §§ 239.14 and 274.11a-1) is amended by:

■ a. Revising Item 1.1.d;

■ b. Revising Item 9.1.c and the Instructions to Item 9.1.c;

■ c. Redesignating Items 21 through 33 as Items 22 through 34;

■ d. Adding new Item 21;

■ e. In paragraph E.3 of the General Instructions, revising the reference "Item 33.4" to read "Item 34.4";

■ f. In paragraph F of the General Instructions, revising the reference "Items 4.1 or 23" to read "Items 4.1 or 24";

■ g. In paragraph F of the General Instructions, revising the reference "Items 4.2, 8.6.c or 23" to read "Items 4.2, 8.6.c or 24";

■ h. In paragraph F of the General Instructions, revising the reference "Items 4.1, 4.2, 8.6.c or 23" to read "Items 4.1, 4.2, 8.6.c or 24";

■ i. In paragraph F of the General Instructions, revising the reference "Item 24.1" to read "Item 25.1";

■ j. In paragraph G.3 of the General Instructions, revising the reference "Items 24.2.h, 24.2.l, 24.2.n, and 24.2.o" to read "Items 25.2.h, 25.2.l, 25.2.n, and 25.2.o";

■ k. In the first paragraph of General Instructions for Part B: Statement of Additional Information, revising the reference "Item 33.6" to read "Item 34.6";

■ l. In Instruction 6 to Item 1.1.g, revising the reference "Item 26" to read "Item 27";

■ m. In Instruction 3 to Item 8.6.c, revising the reference "Item 23" to read "Item 24";

■ n. In Instruction 2 to Item 10.6, revising the reference "Item 24.2.n" to read "Item 25.2n";

■ o. In newly redesignated Item 24.1.b, revising the reference "Item 23" to read "Item 24";

■ p. In newly redesignated Item 25.2.o, revising the reference "Items 8.6 or 23" to read "Items 8.6 or 24"; and

■ q. In Instruction 2 to newly redesignated Item 25, revising the reference "Items 8.6 or 23" to read "Items 8.6 or 24".

The additions and revisions are to read as follows:

**Note:** The text of Form N-2 does not, and these amendments will not, appear in the Code of Federal Regulations.

**Form N-2**

\* \* \* \* \*

**Item 1. Outside Front Cover**

1. \* \* \*

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, whether any of it has been incorporated by reference into the prospectus, and where the table of contents of the SAI appears in 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: to request the SAI; to request the Registrant's annual report; to request the Registrant's semi-annual report; to request 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 Web site 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 Web site.) Also include the information that the Commission maintains an Internet Web site (<http://www.sec.gov>) that contains the SAI, material incorporated by reference, and other information regarding registrants.);

\* \* \* \* \*

**Item 9. Management**

1. \* \* \*

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.

\* \* \* \* \*

**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 21.1b., 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, relocation, 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 (17 CFR 240.16a-1(a)(2)).

\* \* \* \* \*

■ 8. Form N-3 (referenced in §§ 239.17a and 274.11b) is amended by:

- a. Revising Item 1(a)(vi);
- b. Adding new Item 6(e);
- c. Redesignating Items 22 through 37 as Items 23 through 38;
- d. Adding new Item 22;
- e. In paragraph G of the General Instructions, revising the reference "Items 4(a) or 27" to read "Items 4(a) or 28";
- f. In paragraph G(2) of the General Instructions, revising the reference "Item 28(a)" to read "Item 29(a)";



■ g. In paragraph H(3) of the General Instructions, revising the reference "Item 28(b)(5), (12), (13), and (14)" to read "Items 29(b)(5), (12), (13), and (14)";

■ h. In Instruction 3(d) of Item 4(b), revising the reference "Item 27" to read "Item 28";

■ i. In Instruction 2 of Item 9, revising the reference "Item 26" to read "Item 27";

■ j. In Instruction 1 of newly redesignated Item 24, revising the reference "Item 23(f)" to read "Item 24(f)";

■ k. In newly redesignated Item 29(b)(14), revising the reference "Item 27" to read "Item 28"; and

■ l. In Instruction 2 of newly redesignated Item 29, revising the reference "Item 27" to read "Item 28".

The additions and revisions are to read as follows:

**Note:** The text of Form N-3 does not, and these amendments will not, appear in the Code of Federal Regulations.

#### Form N-3

\* \* \* \* \*

#### Item 1. Cover Page

(a) \* \* \*

(vi) A statement or statements that (A) The prospectus sets forth 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 Statement of Additional Information ("SAI"), whether any of it has been incorporated by reference into the prospectus, and where the table of contents of the SAI appears in 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: to request the SAI; to request the Registrant's annual report; to request the Registrant's semi-annual report; to request 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 Web site 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 Web site.) Also include

the information that the Commission maintains an Internet Web site (<http://www.sec.gov>) that contains the SAI, material incorporated by reference, and other information regarding registrants.);

\* \* \* \* \*

#### Item 6. Management

\* \* \* \* \*

(e) 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.

#### Instructions

1. This requirement does not apply to a Registrant that holds itself out as a money market fund and meets the maturity, quality, and diversification requirements of rule 2a-7 [17 CFR 270.2a-7].

2. 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.

\* \* \* \* \*

#### Item 22. Portfolio Managers

(a) If a Portfolio Manager required to be identified in response to Item 6(e) is primarily responsible for the day-to-day management of the portfolio of any

other account, provide the following information:

(i) The Portfolio Manager's name;

(ii) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:

(A) Registered investment companies;

(B) Other pooled investment vehicles;

and

(C) Other accounts.

(iii) For each of the categories in paragraph (a)(ii) of this Item, 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

(iv) 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 paragraph (a)(ii) of this Item, 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 paragraph (a) of this Item 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 paragraph (a) of this Item.

(b) Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to Item 6(e). 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 paragraph (b) of this Item 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, relocation, 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 paragraph (a)(ii) of this Item. 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.

(c) For each Portfolio Manager required to be identified in response to Item 6(e), 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 paragraph (c) of this Item 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 (17 CFR 240.16a-1(a)(2)).

\* \* \* \* \*

- 9. Form N-CSR (referenced in §§ 249.331 and 274.128) is amended by:
- a. Revising the reference "11(a)(1)" in General Instruction D and paragraphs (c) and (f)(1) of Item 2 to read "12(a)(1)";
- b. Redesignating Items 8 through 11 as Items 9 through 12; and
- c. Adding new Item 8.

The additions and revisions are 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.

#### Form N-CSR

\* \* \* \* \*

#### Item 8. Portfolio Managers of Closed-End Management Investment Companies

(a) If the registrant is a closed-end management investment company that is filing an annual report on this Form N-CSR, provide the following information:

(1) State 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.

#### Instructions to Paragraph (a)(1)

1. Provide the information required by this paragraph as of the date of filing of the report. Disclose the date as of which the information is provided.

2. 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.

(2) If a Portfolio Manager required to be identified in response to paragraph (a)(1) of this Item is primarily responsible for the day-to-day management of the portfolio of any other account, provide the following information:

- (i) The Portfolio Manager's name;
- (ii) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:
  - (A) Registered investment companies;
  - (B) Other pooled investment vehicles; and
  - (C) Other accounts.
- (iii) For each of the categories in paragraph (a)(2)(ii) of this Item, 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
- (iv) 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 paragraph (a)(2)(ii) of this Item, 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.

(i) The Portfolio Manager's name;

(ii) The number of other accounts managed within each of the following categories and the total assets in the accounts managed within each category:

(A) Registered investment companies;

(B) Other pooled investment vehicles; and

(C) Other accounts.

(iii) For each of the categories in paragraph (a)(2)(ii) of this Item, 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

(iv) 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 paragraph (a)(2)(ii) of this Item, 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 to Paragraph (a)(2)

1. Provide the information required by this paragraph as of the end of the registrant's most recently completed fiscal year, except that, in the case of any newly identified Portfolio Manager,

information 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 paragraph (a)(2) of this Item.

(3) Describe the structure of, and the method used to determine, the compensation of each Portfolio Manager required to be identified in response to paragraph (a)(1) of this Item. 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 to Paragraph (a)(3)*

1. Provide the information required by this paragraph as of the end of the registrant's most recently completed fiscal year, except that, in the case of any newly identified Portfolio Manager, information 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, relocation, 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 paragraph (a)(2)(ii) of this Item. 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.

(4) For each Portfolio Manager required to be identified in response to paragraph (a)(1) of this Item, 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 to paragraph (a)(4)*

1. Provide the information required by this paragraph as of the end of the registrant's most recently completed fiscal year, except that, in the case of any newly identified Portfolio Manager, information 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 (17 CFR 240.16a-1(a)(2)).

(b) If the registrant is a closed-end management investment company that is filing a report on this Form N-CSR other than an annual report, disclose any change, as of the date of filing, in any of the Portfolio Managers identified in response to paragraph (a)(1) of this Item in the registrant's most recent annual report on Form N-CSR. In addition, for any newly identified Portfolio Manager, provide the information required by paragraph (a)(1) of this Item as of the date of filing of the report and the information required by paragraphs (a)(2), (a)(3), and (a)(4) of this Item as of the most recent practicable date.

\* \* \* \* \*

Dated: August 23, 2004.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04-19575 Filed 8-26-04; 8:45 am]

BILLING CODE 8010-01-P