



Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From:
Securities and Exchange Commission
Office of Investor Education and Advocacy
Washington, DC 20549-0213

Extension: Rule 7d-1

OMB Control No. 3235-0311, SEC File No. 270-176

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the “Commission”) has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 7(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-7(d)) (the “Act” or “Investment Company Act”) requires an investment company (“fund”) organized outside the United States (“foreign fund”) to obtain an order from the Commission allowing the fund to register under the Act before making a public offering of its securities through the United States mail or any means of interstate commerce. The Commission may issue an order only if it finds that it is both legally and practically feasible effectively to enforce the provisions of the Act against the foreign fund, and that the registration of the fund is consistent with the public interest and protection of investors.

Rule 7d-1 (17 CFR 270.7d-1) under the Act, which was adopted in 1954, specifies the conditions under which a Canadian management investment company (“Canadian fund”) may request an order from the Commission permitting it to register under the Act. Although rule 7d-1 by its terms applies only to Canadian funds, other foreign funds generally have agreed to comply with the requirements of rule 7d-1 as a prerequisite to receiving an order permitting the foreign fund’s registration under the Act.

The rule requires a Canadian fund proposing to register under the Act to file an application with the Commission that contains various undertakings and agreements of the fund. The requirement for the Canadian fund to file an application is a collection of information under the Paperwork Reduction Act.

Certain of the undertakings and agreements, in turn, impose the following additional information collection requirements:

- (1) the fund must file with the Commission agreements between the fund and its directors, officers, and service providers requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations relating to the undertakings and agreements in the application;
- (2) the fund and each of its directors, officers, and investment advisers that is not a U.S. resident, must file with the Commission an irrevocable designation of the fund's custodian in the United States as agent for service of process;
- (3) the fund's charter and bylaws must provide that (a) the fund will comply with certain provisions of the Act applicable to all funds, (b) the fund will maintain originals or copies of its books and records in the United States, and (c) the fund's contracts with its custodian, investment adviser, and principal underwriter, will contain certain terms, including a requirement that the adviser maintain originals or copies of pertinent records in the United States;
- (4) the fund's contracts with service providers will require that the provider perform the contract in accordance with the Act, the Securities Act of 1933 (15 U.S.C. 77a), and the Securities Exchange Act of 1934 (15 U.S.C. 78a), as applicable; and
- (5) the fund must file, and periodically revise, a list of persons affiliated with the fund or its adviser or underwriter.

As noted above, under section 7(d) of the Act the Commission may issue an order permitting a foreign fund's registration only if the Commission finds that "by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the (Act)."

The information collection requirements are necessary to assure that the substantive provisions of the Act may be enforced as a matter of contract right in the United States or Canada by the fund's shareholders or by the Commission.

Rule 7d-1 also contains certain information collection requirements that are associated with other provisions of the Act. These requirements are applicable to all registered funds and are outside the scope of this request.

The Commission believes that one foreign fund is registered under rule 7d-1 and currently active. Apart from requirements under the Act applicable to all registered funds, rule 7d-1 imposes ongoing burdens to maintain records in the United States, and to update, as necessary, certain fund agreements, designations of the fund's custodian as service agent, and the fund's list of affiliated persons. The Commission staff estimates that each year under the rule, the active registrant and its directors, officers, and service providers engage in the following collections of information and associated burden hours:

- For the fund and its investment adviser to maintain records in the United States:¹
 - 0 hours:0 minutes of compliance clerk time.
- For the fund to update its list of affiliated persons:
 - 2 hours:2 hours of support staff time.
- For new officers, directors, and service providers to enter into and file agreements requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations:
 - 0.5 hours: 7.5 minutes of director time;
 - 2.5 minutes of officer time;
 - 20 minutes of support staff time.
- For new officers, directors, and investment advisers who are not residents of the United States to file irrevocable designation of the fund's custodian as agent for process of service:

¹ The rule requires an applicant and its investment adviser to maintain records in the United States (which, without the requirement, might be maintained in Canada or another foreign jurisdiction), which facilitates routine inspections and any special investigations of the fund by Commission staff. The registrant and its investment adviser, however, already maintain the registrant's records in the United States and in no other jurisdiction. Therefore, maintenance of the registrant's records in the United States does not impose an additional burden beyond that imposed by other provisions of the Act. Those provisions are applicable to all registered funds and the compliance burden of those provisions is outside the scope of this request.

0.25 hours: 5 minutes of director time;
10 minutes of support staff time.

Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 2.75 hours.² We estimate that directors perform 0.21 hours of these burden hours at a total cost of \$945,³ officers perform 0.04 of these burden hours at a total cost of \$17.32,⁴ and support staff perform 2.5 of these burden hours at a total cost of \$150.⁵ Thus, the Commission estimates the aggregate annual cost of these burden hours associated with rule 7d-1 is \$1112.32.⁶

If a fund were to file an application under rule 7d-1 to register under the Act, the Commission estimates that the rule would impose initial information collection burdens (for filing an application, preparing the specified charter, bylaw, and contract provisions, designations of agents for service of process, and an initial list of affiliated persons, and establishing a means of keeping records in the United States) of approximately 90 hours for the fund and its associated persons. The Commission is not including these hours in its calculation of the annual burden because no fund has applied to register under the Act pursuant to rule 7d-1 in the last three years.

² This estimate is based on the following calculation: $(0 + 2 + 0.5 + 0.25) = 2.75$ hours.

³ The director estimates are based on the following calculations: $(7.5 \text{ minutes} + 5 \text{ minutes}) / 60 \text{ minutes per hour} = 0.21$ hours; and $0.21 \text{ hours} \times \$4500 \text{ per hour} = \945 . The per hour cost estimate is based on estimated hourly compensation for each board member of \$500 and an average board size of 9 members.

⁴ The officer estimates are based on the following calculations: $2.5 \text{ minutes} / 60 \text{ minutes per hour} = 0.04$ hours; $0.04 \text{ hours} \times \$433 \text{ per hour} = \$17.32$. This per hour cost estimate, as well as other internal cost estimates for management and professional earnings, is based on the figure for chief compliance officers found in SIFMA's Management & Professional Earnings in the Securities Industry 2011, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

⁵ The support staff estimates are based on the following calculations: $2 \text{ hours} + 20 \text{ minutes} + 10 \text{ minutes} = 2.5$ hours; and $2.5 \text{ hours} \times \$60 \text{ per hour} = \$150$. The per hour cost estimate, as well as other internal cost estimates for office salaries, is based on the figure for compliance clerks found in SIFMA's Management & Professional Earnings in the Securities Industry 2011, modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

⁶ This estimate is based on the following calculation: $\$1112.32 = \$945 + \$17.32 + \150 .

After registration, a Canadian fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d-1 does not mandate these applications. The active registrant filed a substantive supplemental application in 2011. The Commission staff estimates that the rule would impose an additional information collection burden of 5 hours on a fund to comply with the Commission's application process at a cost of \$5957.⁷ The staff understands that funds also obtain assistance from outside counsel to comply with the Commission's application process and the cost burden of using outside counsel is set forth below.

Therefore, the Commission estimates the aggregate annual burden hours of the collection of information associated with rule 7d-1 is 7.75 hours, at a cost of \$7069.32.⁸ These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

If a Canadian or other foreign fund in the future applied to register under the Act under rule 7d-1, the fund initially might have capital and start-up costs (not including hourly burdens) of an estimated \$17,280 to comply with the rule's initial information collection requirements. These costs include legal and processing-related fees for preparing the required documentation (such as the application, charter, bylaw, and contract provisions, designations for service of process, and the list of affiliated persons). Other related costs would include fees for establishing arrangements with a custodian or other agent for maintaining records in the United States, copying and transportation costs for records, and the costs of purchasing or leasing computer equipment, software, or other record storage equipment for records maintained in electronic or photographic form.

⁷ The staff estimates that, on average, the fund's investment adviser spends approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel at a cost of \$407 per hour, 0.5 hours by an administrative assistant, at a cost of \$65 per hour, and the fund's board of directors spends an additional 1 hour at a cost of \$4500 per hour for a total of 5 hours, for a total cost of \$5957. This estimate is based on the following calculation: (3.5 hours x \$407 per hour) + (0.5 hours x \$65 per hour) + (1 hour x \$4500 per hour) = \$5957.

⁸ These estimates are based on the following calculations: 2.75 hours + 5 hours = 7.75 hours; \$1112.32 + \$5957 = \$7069.32.

The Commission expects that a foreign fund and its sponsors would incur these costs immediately, and that the annualized cost of the expenditures would be \$17,280 in the first year. Some expenditures might involve capital improvements, such as computer equipment, having expected useful lives for which annualized figures beyond the first year would be meaningful. These annualized figures are not provided, however, because, in most cases, the expenses would be incurred immediately rather than on an annual basis. The Commission is not including these costs in its calculation of the annualized capital/start-up costs because no fund has applied under rule 7d-1 to register under the Act pursuant to rule 7d-1 in the last three years.

As indicated above, a Canadian fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d-1 does not mandate these applications. The active registrant filed a substantive application in the past three years. The staff understands that funds generally use outside counsel to prepare the application. The staff estimates that outside counsel spends 10 hours preparing the application, including 8 hours by an associate and 2 hours by a partner. Outside counsel billing arrangements vary based on numerous factors, but the staff has estimated the average cost of outside counsel at \$400 per hour, based on information received from funds, intermediaries and their counsel. The Commission therefore estimates that the fund would obtain assistance from outside counsel at a cost of \$4000.⁹

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

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.

The public may view the background documentation for this information collection at the following website, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities

and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: Shagufta_Ahmed@omb.eop.gov; and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Kevin M. O'Neill
Deputy Secretary

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(..continued)

⁹ This estimate is based on the following calculation: 10 hours x \$400 per hour = \$4000.